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# **Dangerous Sex, Invisible Labor**

**Sex Work and the Law in India**

Prabha Kotiswaran



PRINCETON



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*For my parents, Bama and Sekhar*

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PART ONE

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## **Theorizing Sex Work**

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# **Dangerous Sex, Invisible Labor**

## **An Introduction**

All day long, there was a buzz in the office. A rally had been called. Shanti, a sex worker in the Bow Bazaar area of central Kolkata, had been assaulted by her landlady, Ritu. Shanti had been behind on her rent for the past three weeks, and when she asked Ritu for more time since she didn't have any customers, Ritu had taken her to a nearby alley and beat her black and blue with a thick bamboo stick. Shanti showed us the bruises on her back, hands, and legs. She had been in the Durbar Mahila Samanwaya Committee (DMSC) office all day with her lover and ten-month-old son.<sup>1</sup> A meeting was held in the director's office in the morning. And by 3:00 PM, sex workers and project staff from all twenty-one Kolkata field areas of the DMSC converged on Bow Bazaar. When there is a protest rally at the DMSC, *everyone*, including the accountants, project coordinators, administrative staff, computer room staff, and "visitors" like myself, is required to join it. Projects are important, but at the DMSC there is a belief that its most important goal is to fight for sex workers' empowerment. By the time I reached Bow Bazaar with Mitra Routh, a field supervisor for Sonagachi, another major red-light area in North Kolkata, the narrow Prem Chand Boral Street was filled with sex workers and DMSC staff. At the end of the street, a small makeshift stage had been set up. The Polli Milan Sangh, a local club where the DMSC clinic is held, was teeming with sex workers taking shelter from the sweltering July heat.

Soon the meeting started, and many sex workers went up to the stage to address the gathering. This included leaders like Swapna Gayen, a sex worker and secretary of the DMSC and a longtime resident of Bow Bazaar, through whom the DMSC got to know about Shanti's abuse. Then there were branch committee members for the red-light area and older sex workers who were resident there who spoke out against Ritu's abusive behavior. Being at DMSC events, it is easy to forget how unusual it is for Indian sex workers to grab the mike and come out in front of hundreds of people to say they are sex workers, that they have been abused, and that we should do something about it. It is not surprising that the DMSC often uses these protest rallies as a training ground to improve

the confidence and public-speaking skills of sex workers who can otherwise barely manage to say a few words. Some of the project staff and advisors to the DMSC also spoke, as did the president of the local club. Finally, it was Shanti's turn. She was very emotional and expressed her rage and frustration at Ritu. Then the rally started. There were about three hundred of us. The rally circled around the neighborhood. As we passed by, the people living in houses, and those working in the gold jewelry shops that Bow Bazaar is famous for, just stopped and stared at us. For me, the most unforgettable scene was when I peered into a blacksmith's shop and saw five men's faces in a row as they halted their work to look out at us.

We finally arrived at Ritu's house. A short sex worker right behind me was shouting slogans in Bengali against Ritu in a powerful voice. "DMSC is against *dalals* [touts/agents], *mastans* [hooligans], and abusive *malkins* [landladies].<sup>2</sup> Watch out, oh perpetrators of violence against Shanti, Durbar is here." After a few minutes in front of Ritu's house, we marched to the area police station, an old red brick colonial building. There, as we sat outside the police station, a few representatives of the sex workers went inside. A case had already been registered with the police the evening before. The police had arrested Ritu, who was released on bail that morning. While waiting there, I heard from Mitra that another sex worker had been beaten by Ritu two nights ago. She hadn't told anyone about it, but when she saw the strength of the rally, she came forth and accompanied Durbar representatives to the police station to register a case against Ritu. Such is the influence of the DMSC, which has been at the forefront of campaigning for workers' rights for Indian sex workers for more than a decade now.

The striking image of mobilized third world sex workers must startle us, bombarded as we routinely are by the media and the international human rights community with horrific stories of trafficking, wherein the embattled figure of the enslaved third world sex worker makes her way into the popular imagination in a highly particularized way.<sup>3</sup> Not that these reports of trafficking are untrue. Yet the contrasting images of the protesting sex worker and enslaved sex worker embody profound normative contestations over how we understand the sale of sexual services for money. The proliferating images of third world sex slavery also contain within them a story of the politics of mobilization, of the disparately unequal spaces of international civil society (Batliwala 2002) wherein the struggles of localized and marginalized social movements like that of Kolkata's sex workers are barely audible. This stands in sharp contrast to the influence of feminism, both in international and national contexts, which is increasingly being propelled into the hallways of power, leading some of us to characterize it as "governance feminism"<sup>4</sup> (Halley et al. 2006, 340; 2008a, 2008b). Many stories of movement politics, both on the part of sex workers and feminists, remain to be told. Yet those stories are not the focus of my book. I am instead interested here in exploring what the contemporary sex work debates render less visible,<sup>5</sup> namely, the third world sex worker's normative demands that she be treated as a worker. Note what sex workers had to

say (Durbar Mahila Samanwaya Committee 2006) on the occasion of a rally organized under the aegis of the National Network of Sex Workers (NNSW), a network of Indian sex workers' organizations, including the DMSC, in March 2006 when protesting amendments to the federal anti-sex work law (or the Immoral Traffic Prevention Act, 1956, also called the ITPA) then pending before the Indian Parliament. The amendment criminalized customers of sex workers.

We demand that sex work be put in the occupation schedule of the Ministry of Labour. Once we sex workers start enjoying all the rights that the workers of the land enjoy—then the STDs and the raging HIV/AIDS pandemic can be successfully tackled by us, as occupational hazards of the sex sector.

So why put up with this immoral IT(P)A, which is singularly clueless about human trafficking in our country? Let us scrap it. Let us tackle real issues instead. These are the realities of: sexual exploitation of girls and child brides in the vast majority of our homes, where trafficking begins; our stunted, topsy-turvy yet multi-faceted sexual culture; our sex-ratio imbalances; our avoidance of sex education; and the reality of human trafficking in our vast human ocean of wage less slavery.

In this book, I want to ask what it means for the four-thousand-odd sex workers at the march to the Indian Parliament to have sex work listed as an occupation by the Ministry of Labour. What is one to make of sex workers' strategic self-deployment at the front lines of the fight against HIV and their recasting of the "problem" of the trafficking of women, not for sex work but for marriage? What aspects of sex workers' subalternity do these rights claims bear the imprint of? At the most general level, what is at stake here in legitimizing sex work, not just as a form of female sexual labor that is empirically observable but as a legitimate form of work (the "work position")? Should we as a society permit the sale of sex; if so, who should sell how much sex and under what conditions? Who benefits from this labor? What do sex workers get in the process? Is engaging in sex work a zero-sum game for them? Do we as feminists have a vocabulary that is adequate to theorize sex work as work in all its complexities? Are there genealogies of feminist theorizing on sex work that might help build this vocabulary, in particular, to theorize the form of female reproductive labor that it constitutes, its materiality and subjectivity at a microlevel, and the contours of the labor market that it inhabits? Do we have a theory that might delineate its relationship with other labor markets that employ female reproductive labor, such as marriage and the informal economy,<sup>6</sup> and the macroeconomic backdrop against which sex markets are situated? More important, what are the prospects for laws to ensure the interests of sex workers themselves should we choose to adopt the work position?

Some may already detect an insidious conspiracy of global capitalism in my attempt to reframe sex workers from belonging to the ranks of the lumpen

proletariat to being legitimate sexual laborers. What better indication than that under the monstrously unequal conditions of contemporary global capitalism, sex work becomes the last frontier for the pauperization of women, leading us all to do “sex work” in some form or the other? After all, nothing could have prepared the *New York Times* columnist Nicholas Kristoff for being held up when the Cambodian sex worker he was rescuing from her brothel keeper refused to be “freed” until he also released her pawned cell phone and jewelry (2004b, A27)! Yet, when Kristoff tried to pull off a similar rescue operation in Sonagachi a year later, he had to settle for the less dramatic story of an ex–sex worker in a squalid Kolkata slum who had married an erstwhile customer; “poor but free,” he had effused (2006, 17). Should we then understand sex workers’ claims that they be treated as workers as a rejection precisely of this demand that they stay poor rather than engage in sex work? Essential to evaluating these competing claims is the larger backdrop against which they have arisen. It is to the two international phenomena of the renewed abolitionist movement against sex work and the public health efforts at HIV/AIDS prevention that I now turn.

### ■ The Global Sex Panic Situated; or, Abolitionism Renewed

Every morning on news channels across the world, the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) airs a sixty-second public service announcement where against the background of a cheerful song, a white male tourist wanders about a marketplace, oblivious to three instances of human trafficking—two young men in forced labor eating scraps of food fallen on the pavement; a young boy coerced into begging being beaten by his trafficker; and a middle-aged white man negotiating with a brothel keeper for sex with a minor trafficked sex worker. As the john smacks his lips and the door closes on the sex worker, we are exhorted to *Open [y]our eyes to human trafficking*, reminded that *It’s a hidden crime*, and that *It’s happening all around us*. Curiously, it is almost impossible to detect the geographical setting of the announcement, although the traffickers, the customer, and our unsuspecting male tourist are all white men, while the trafficked victims are racially diverse. This erasure of the concrete social setting in which trafficking occurs might well have been intended to underscore the “universal” nature of the problem. Yet the decontextualized portrayal of trafficking and its hyperreality is symptomatic of the global sex panic (Brennan 2008, 49; Weitzer 2006) in which we find ourselves at the contemporary moment. In this context, the temptation to rescue third world sex workers has been especially hard to resist.<sup>7</sup> Zana Briski, in her 2005 Oscar-winning documentary *Born into Brothels*,<sup>8</sup> chronicled her attempts to bring hope to the lives of sex workers’ children in Kolkata’s red-light areas through photography. Elsewhere, righteous journalists like Kristoff had embarked on the ultimate liberal fantasy—to purchase the freedom of Cambodian sex workers from Poipet’s brothels (*Girls for Sale* 2004a, A15). Meanwhile,

saviors were also in the making. In November 2008, at a packed auditorium at the London School of Economics, the radical feminist icon Catharine MacKinnon held audience with several hundred students, where, to rapturous applause, she held up recent antitrafficking laws as one of the most promising venues for challenging women's subordinate status internationally. She carried on her message to India where, in January 2009, she called upon the Indian government to pass the proposed amendments to the ITPA, which, following the Swedish model, criminalized customers of sex workers.

The articulation of the "problem" of sex work and trafficking internationally over the past two decades has taken place against the backdrop of a global sex panic fueled largely by an abolitionist movement consisting of U.S. radical feminists and religious conservatives and operationalized worldwide by the Bush administration (Bernstein 2007b, 130). The abolitionist position maps onto the radical feminist analysis of sex work, which views it as an institution of coercion and discrimination and understands sex workers as victims and sex slaves. For abolitionists, the figure of the sex worker, far from being morally dangerous, is displaced by an image of her as being subject to considerable harm and danger herself. They also place a heightened emphasis on the power of criminal law to eliminate the sex industry by having a unidirectional repressive effect on sex markets. The centrality of criminal law to the abolitionist project is exemplified by the international proliferation of the Swedish model of decriminalizing the sex worker but criminalizing the customer. The criminal law approach is similarly reiterated in the 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (UN Protocol), supplementing the 2000 United Nations Convention Against Transnational Organized Crime, and the U.S. law, the Victims of Trafficking and Violence Protection Act, 2000 (VTVPA). Under the VTVPA, the U.S. Department of State releases rankings of national governments the world over who received U.S. aid, based on their performance in three areas to combat human trafficking, including the prevention of trafficking, the prosecution of traffickers, and the protection of victims of trafficking. Countries that perform poorly and do not comply with a certain minimum standard for the elimination of trafficking fall within Tier 3 of the annual Trafficking in Persons (TIP) Report and risk the withholding of nonhumanitarian, non-trade-related foreign assistance (Halley et al. 2006, 363). The threat of U.S. sanctions has had considerable ramifications for domestic prostitution law reform. To illustrate, prostitution law reform had been in discussion in India for at least the past twenty years, starting with the discovery of the HIV virus in 1986. Yet the U.S. State Department's demotion of India from Tier 2 to the Tier 2 Watch List in 2004 accelerated the pace of reform in the direction of abolition or partial decriminalization, culminating in the proposed amendment to the ITPA. Anecdotal accounts from Indian activists suggest that the sanction-based regime and related U.S. measures, such as the need to take the prostitution pledge to avail of funding, has had a chilling effect on the discursive spaces inhabited by a range of domestic actors,<sup>9</sup> including activists, nongovernmental

organizations (NGOs), and community-based organizations (CBOs). As a result, sharp lines were drawn between those who want to abolish sex work and those who are more ambivalent about such an absolutist stance. Meanwhile, at the local level, the resurgence of international abolitionism has led to the microsurveillance of the activities of women and girls, ostensibly to prevent their trafficking into sex work (Kotiswaran 2011).

## ■ Sex Work in the Context of International Pandemic Control

Lest we overestimate the influence of the abolitionist agenda, anti-HIV/AIDS prevention efforts have been equally influential over the past two decades in shaping our perceptions of sex work. Efforts to prevent India from becoming the next epicenter of the AIDS pandemic have led to the increased circulation of monetary resources and services, and to the establishment of numerous public-private partnerships involving the state, civil society, and foreign donors. These donors include multilateral institutions like the Joint United Nations Programme on HIV/AIDS (UNAIDS), development agencies like the United States Agency for International Development (USAID) and the Department for International Development (DFID), venture philanthropists like Bill Gates, and other celebrities. This has resulted in the remarkable proliferation of NGOs, which have spawned, in a Foucauldian sense, a web of purveyors of sexuality, namely, foundation directors, program officers, NGO staff, and peer educators, many of whom are or have been sex workers. Together, they have created a knowledge base that has resulted in the identification and edification of marginal sexualities like “MSM” (men having sex with men) and “CSW” (commercial sex workers). Sex workers in particular have been both the agents and objects of surveillance under an elaborate watch-care system (Ghosh 2005). Informed by the liberal attitudes of the medical profession, the public health complex is tolerant of varied sexual practices, including sex work. However, its support of sexually marginalized groups relates to a different mode of bureaucratic rationality. Their utilitarian calculus allows room for interventions among “high-risk” groups like sex workers and their consequent mobilization, but only to the extent necessary to prevent the spread of HIV to the general population, really, “innocent” wives and children in heterosexual marital families. The dangerousness of sex work here is encoded differently when compared to the abolitionists. For public health experts, danger resides in the unsafe sexual practices that sex workers engage in. Sex workers are then understood not as victims but as “change agents” who can negotiate safe sexual practices with customers.

The public health complex has no legal agenda as such. Criminal law is perceived to be an “environmental factor” or a “barrier” to effective large-scale interventions, yet public health bodies typically call for a rights-based approach to sex work without unequivocally advocating decriminalization. To illustrate,



the Indian National AIDS Control Organisation's recommendation has been to constitute a task force for the review of existing laws and the speedy redressal of rights violations through linkages with human rights commissions (2006b, 142). Similarly, the Commission on AIDS in Asia observes that since the arrest of sex workers renders HIV prevention ineffective and expensive, legislative and policing barriers preventing sex workers from organizing collectives should be removed (2008, 187). Only world public health organizations such as the United Nations, UNAIDS, and the World Health Organization (WHO) have called for the decriminalization of sex work if no victimization is involved (Rekart 2005, 2129; Raymond 2004, 1181; Ahmad, 2001, 643). Thus, the exigencies of pandemic control are a slippery slope on which to base a substantial campaign to counter violence against sex workers, much less contemplate redistributive law reform in favor of sex workers' interests. Yet it counteracts the abolitionist project and its call for increased state control through criminalization,<sup>10</sup> which altogether refuses to countenance sex work or sex workers. Also, unlike the abolitionist movement, throughout the 1990s the public health complex has funded sex worker participation in international gatherings on pandemic control, which in turn has ensured repeated contact between sex workers' groups in the developing world, thereby facilitating their mobilization (Kempadoo 1998, 22).

The projects of international abolitionism and pandemic control coexist in deep tension with each other with vastly differing normative views of the institution of sex work, the role of sex workers within it, and what constitutes an appropriate regulatory framework. They also have a cascading effect on a range of domestic and international actors, both governmental and nongovernmental, who coalesce around their differing positions. For instance, the two agendas have produced dissonance within the Indian state between the federal Ministry of Women and Child Development, the Ministry of Home Affairs, the National Human Rights Commission, and the National Commission for Women on the one hand, all of whom call for abolition, and the federal Ministry of Health and the National AIDS Control Organisation on the other, which are opposed to abolition. This governmental dissonance (Chatterjee 2006, 805) was largely responsible for the lapsing in February 2009 of the proposed amendments to the ITTPA in the Indian Parliament.

### ■ Toward a Feminist Work Position

The contemporary figure of the Indian sex worker is thus suspended between the two international agendas of abolition and public health control, both motivated by contradictory goals. A similar confrontation was staged during the colonial period but by a different constellation of interest groups. The colonial state appropriated the sexual labor of women in the interests of empire, but when the health of its soldiers was compromised, it unleashed a brutal regime

of legalization backed up by criminal sanctions, the brunt of which was mostly borne by sex workers. Legalization was opposed by abolitionist groups, particularly metropolitan feminists. Eventually, the nationalist elite, also influenced by the international social purity and abolitionist movements, lobbied for the passage of antitrafficking legislation. In the process, the Indian religious orthodoxy, which promoted customary prostitution, lost out, as did sex workers. In the contemporary phase, however, the Indian state has ostensibly adopted feminist abolitionist reasoning. On the one hand, any feminist would find it heartening that a feminist sensibility of outrage at the trafficking and sexual exploitation of sex workers is on the verge of becoming state common sense in place of the more persistent moralist condemnation of sex workers as sexual deviants. Still, the outcome of this feminist sensibility has been to step up criminalization, which adversely affects sex workers' interests. More significant, states are known to use the motif of the victim to delineate between deserving and undeserving victims, thus perverting the radical thrust of feminist insights. Meanwhile, it is the public health institutions that are opposed to abolition, although they are also indifferent to legalization, given the potential for state regulation to undermine safe sex practices. Thus, there is little or no support from the public health complex for more redistributive reform, and efforts at redistribution must necessarily emerge from a feminist work position.

Feminists have long debated the normative status of sex work. Even at the risk of oversimplification, two oppositional touchstone positions dominate the feminist debates concerning sex work. Abolitionists adopting a sexual subordination approach are against the commodification of sex and view sex work as a paradigmatic form of violence against women, embodying gender inequality. For them, sex workers are victims and lack agency in the context of pervasive institutional violence. Sex work advocates, on the other hand, are agnostic to the commodification of sex *per se* and, while cognizant of the circumstances under which women take to it, view sex workers as agents with some ability to negotiate within the sex industry. Thus, their emphasis is on protecting and promoting the rights of sex workers. Despite the polarized appearance of these caricatured feminist positions, most feminists chart the middle ground between the two camps, a theme I will elaborate on in chapter 2.

I view my book itself as clarifying, contributing to, and building upon the work position, which has long been articulated by sex work advocates. In particular, I track the feminist theoretical, empirical, and regulatory aspects of the work position. In what has become fraught feminist terrain, any attempt to articulate a work position is bound to be viewed as a liberal or neoliberal, individualist project that advocates conventional legalization, including the mandatory testing of sex workers and zoning while normalizing a whole host of market practices within the sex industry (Jeffreys 2009; O'Connell Davidson 2002). Vital to this mischaracterization of the work position is an ancillary mischaracterization of the socialist or materialist feminist view of sex work. Since materialist feminism is interested in women's work, and some feminists

view sex work at least as involving sexual labor, materialist feminists are automatically assumed to support the work position (Jeffreys 2009; Baldwin 1992, 102). It is as if the erasure of the materialist feminist viewpoint, which is in fact by and large opposed to the work position, leaves the field open to the only remaining structuralist feminist analysis, namely, radical feminism, which can then authoritatively speak for women's interests in sex work. In part 1 of the book, I correct this misunderstanding by demonstrating, through a genealogy of materialist feminist theorizing on sex work, these feminists' opposition (with a few exceptions) to the work position. If this were the case, however, why consider materialist feminism, especially given its wayward fortunes in the United States, leading Janet Halley to characterize it as an etherized patient on the table (2006, 81)? Other feminists have rightly wondered about the usefulness of the Marxist framework more generally to the understanding of sex work (O'Connell Davidson 2002, 94; Truong 1990, 35). For the reasons outlined below, I suggest that the usefulness of materialist feminism lies not so much in its proposed outcomes on the "prostitution question" (Sunder Rajan 2003) but in its feminist method.

First, as I will demonstrate, in the past decade or so, even radical feminists have become increasingly interested in the materiality of sex markets. While sexual subordination remains the motif of their abolitionism, they increasingly offer a theory of the political economy of sex work in light of which materialist feminist approaches to sex work become relevant. Second, I argue that a materialist feminist method has the potential to add to the vocabulary of the contemporary feminist sex work debates by elaborating on a theory of reproductive labor, the interrelation between markets for female reproductive labor and the micro- and macro-political economic backdrop against which they operate. Payoffs in the process may well include an expanded feminist methodological tool kit and a multiplicity of political projects involving both feminists and sex workers collaborating for redistributive reform instead of being curtailed by the dominant feminist impulse to treat sex work as an exceptionally harmful activity performed in the discrete institutional settings of the sex industry.

Finally, materialist feminism is pertinent in that it resonates in third world contexts like India with strong leftist traditions. This is despite the fraught relationship that feminism has traditionally shared with Marxism worldwide. In fact, feminists claim that socialist feminists dominate women's issues in India in the media, in government policy-making circles, and influential public fora (Kishwar 1990, 38), and that socialist feminism is considered to be the only respectable feminist position, as opposed to bourgeois feminism or radical feminism (*ibid.*, 40). Similarly, from interviews with sex worker activists at the DMSC, which is based in Kolkata, the capital of one of the few Indian states with a left ruling party, it is clear that their mobilizational repertoire is shaped by the culture of workers' protest movements in Kolkata. Even substantively speaking, both the DMSC and the Kerala Sex Workers' Forum articulate their politics against the backdrop of a Left political culture and materialist feminism

in particular (e-mail correspondence from Jayasree, Kerala Sex Workers' Forum 2008). In fact, I first read of Alexandra Kollontai in a DMSC pamphlet. This suggests the resilience of a leftist/Marxist discursive and political culture, despite its mixed outcomes for sex workers' groups in aligning with the Left. After all, the Left has a propensity to treat sex workers, for all practical purposes, as belonging to the lumpen proletariat, if not outright, as immoral women (Devika 2006, 1675, citing Mukundan) or a social scourge (Devika 2007, xii).

## ■ The Political Economy of Indian Sex Markets

Over the past decade, with the emergence of sex workers' movements in the third world, feminists have sought to highlight sex worker agency (Kapur 2005a; 2005b; Kempadoo 1998, 2005) to counter the radical feminist portrayal of third world sex workers as sex slaves. While this move is undoubtedly crucial, in the absence of an account of the concrete social and material settings in which sex worker agents are embedded, the category of the "agent" runs the risk of becoming an empty signifier. Bearing the burden of resisting the very institutions that constitute the agent (Sunder Rajan 2003, 130) then renders her as decontextualized a category as the victim subject in abolitionist accounts of sex work. Given the call for a more detailed account of the sex worker's agential role (*ibid.*, 140), and the growing tradition of empirically informed feminist scholarship on sex work, part 2 presents the sociology of sex work in two archetypical urban Indian sex markets, focusing on the political economy of these *markets* and on the *law* operative within them. Specifically, I look at brothel-based sex work in Sonagachi, the biggest and oldest red-light area in Kolkata, a major metropolitan Indian city. I also consider dispersed sex work in Tirupati, a city in the southern state of Andhra Pradesh, famous as the world's most popular religious destination, the numbers of its visitors even surpassing those to the Vatican.

I study Sonagachi because despite the iconic status of brothels in the red-light areas of major Indian and indeed South Asian cities in the academic (Saeed 2002; Sleightholme and Sinha 1996; Joardar 1984; Punekar and Rao 1967) and journalistic literature (Shah 2006a), little is known about the economics of sex work and even less about the legal ethnography of these red-light areas. Yet, as scholars point out, the very iconicity of the red-light area serves to render invisible sex work performed outside the red-light area (*ibid.*), and this perhaps explains the lack of studies of sex work in nonbrothel settings.<sup>11</sup> This invisibility is alarming in light of estimates by donor agencies and the Indian federal government alike, that only 5 to 9 percent (Sengupta and Sinha 2004; National AIDS Control Organisation 2007, 10) of the sex work in India is performed in a brothel setting in contrast to 90 percent in Thailand (Sengupta and Sinha 2004). Here, the differences in the regional geographies of Indian sex markets become pertinent. Although my choice of field sites was mediated

largely by issues of access and considerations of language, regional differentiation in sex markets was a significant factor as well. To elaborate, red-light areas are common in Northern India but rare in the South where sex work is more dispersed. Hence, my study focuses on Tirupati's sex market with an emphasis on sex work in diverse institutional settings other than the brothel, hypothesizing that sex workers are arguably less exploited there given their embeddedness in mainstream social structures when compared to sex workers in a red-light area set in an impoverished quarter of a metropolitan Indian city with its attendant problems.

My examination of the political economy of sex work in Sonagachi and Tirupati is meant to outline at least some of the features for sex work that Shrage associates with work in general, namely, the class factors that determine a woman's entry into sex work, the strategy for livelihood motivating sex workers, attitudes and aspirations in relation to it, the forms of labor discipline it requires, its determination of sex workers' class identity and social status, and the social structures and codes of conduct that sustain it (1994, 122). I attempt this based on stakeholder analysis.<sup>12</sup> In delineating the various categories of stakeholders and the relational dynamics between them, however, I do not assume that their interests necessarily and always form a nexus against those of sex workers. Instead, I find a Foucauldian understanding of power useful for understanding the relational dynamics between stakeholders in sex markets, although the market was not an institution that Foucault himself studied at length.<sup>13</sup>

In particular, three ideas that Foucault presents in volume 1 of the *History of Sexuality* are worth recollecting. First, that power is not "a general system of domination exerted by one group over another," and there is therefore no unity of domination (Foucault 1978, 92); thus, the explanatory powers of patriarchy and capitalism are inadequate for explaining the existence of sex industries. Second, that "power must be understood in the first instance as the multiplicity of force relations immanent in the sphere in which they operate and which constitute their own organization" (ibid.); that these force relations can form a chain or a system, or act in a mode of disjunction and contradiction and be isolated from one another; and that power's condition of possibility is "the moving substrate of force relations which, by virtue of their inequality, constantly engender states of power, but the latter are always local and unstable" (ibid., 93). In particular, relations of force enter into "redistributions, realignments, homogenizations, serial arrangements, and convergences" (ibid., 94), and "major dominations are the hegemonic effects that are sustained by all these confrontations" (ibid.). Thus, the interests of stakeholders, including landlords, brothel keepers, customers, hooligans, and the police, do not form a unitary system of domination against sex workers. Instead, the alignment of their interests, if and where evident, is contingent. As I will demonstrate in the chapters to come, the power relations among the various stakeholders, including among sex workers inter se in the highly internally differentiated sex markets of Sonagachi and Tirupati, are fluid. In the process, patterns of power relations—even equilibriums—seem

to emerge, but they are open to destabilization. Finally, Foucault explains that “Where there is power, there is resistance” (ibid., 95), but more important, “this resistance is never in a position of exteriority in relation to power” (ibid.). So even in the most exploitative and violent mode of organization of sex work, there is an elaborate interplay of power and resistance between all stakeholders, but by the same token, sex worker agency cannot be valorized because it is always in interaction with power and, as Foucault notes, great radical ruptures are possible, but they are rare (ibid., 96). Following Foucault, then, can only lead to complicating the dominant images of sex workers in both the abolitionist and sex work advocate camps, as sex slaves and agents, respectively.

### ■ The Law in Sex Markets

For feminists, the law has long been the ground on which discursive disagreements are played out, and laws targeting sex work and trafficking offer no exception. Indeed, the fractious and polarized debates over the status of sex work have found expression in a plethora of legal and regulatory projects at the international, national, and regional levels (Della Giusta and Munro 2008, 1–5; Halley et al. 2006). Since the UN Protocol allows countries to adopt their own prostitution law regimes, domestic legal regimes tend to demonstrate a variety of regulatory initiatives. The countries that are in various stages of considering or adopting the Swedish abolitionist model include India, the United Kingdom, South Korea, Norway, Finland, and Cambodia, whereas sex work has been either decriminalized or legalized in Germany, the Netherlands, New Zealand, and certain Australian provinces. Yet feminists, irrespective of whether they are of an abolitionist persuasion or not, all display an unwavering faith in the power of criminal law. For abolitionists, criminal law is understood as capable of repressing sex markets, assuming that it is, in fact, enforced. Any reform project is then centered on redirecting the energies of criminal law toward the “true” offenders (rather than sex workers, for instance), adjusting criminal penalties to ensure their effectiveness and incentivizing the enforcement machinery to implement the law. On the other hand, those who are less equivocal about the solely violent characterization of sex work favor decriminalization, because in their view, the costs of criminalization are disproportionately borne by sex workers, so that any increased criminalization of sex work will only punish them more. If sex work were instead decriminalized, sex workers would be better off.

I problematize both narratives by demonstrating that not only are stakeholders in sex markets highly internally differentiated, but they are also differentially endowed by a plural rule network. Here I draw on the substantive insights of legal realism, the use of legal rules for private ordering, and the sociolegal scholarship on legal pluralism. The basic legal realist insight into the importance of background rules is vital for any project of redistribution. Specifically,

and summarized by Kennedy, “in the realist analysis, there are two particularly important general categories of rules affecting bargaining strength. The first and more obvious contains the rules governing the conduct of the parties during bargaining. The second is the set of rules that structure the alternatives to remaining in the bargaining situation” (1993, 83, 87). Stated more generally,

[W]e do not assume that the legal system as a whole deliberately decrees one thing or another. . . . Rather, we conceptualize the network [of private rights and public regulations] as providing background rules that constitute the actors, by granting them all kinds of powers under all kinds of limitations, and then regulating interactions between actors by banning and permitting, encouraging and discouraging particular tactics of particular actors in particular circumstances. (Kennedy 2002, 80)

Moreover, as the substantial sociolegal and anthropological literature on the law (Santos 2002) demonstrates, the formal state law is in constant interaction with several other legal orders, including social norms, customs, community-based dispute resolution mechanisms, social practices, and market structures. In the postcolonial setting, the pervasive nature of illegality, especially of living and working arrangements, adds yet another dimension to the study of legal pluralism. The legal realist insights into the workings of formal state law have been extended to a legal pluralist setting by accounting for the role of informal social norms and illegality (Kennedy 2002). Thus, stakeholders variously endowed by the rule network routinely enter into bargains in the shadow of the law (Mnookin and Kornhauser 1978–79), in this case, criminal law, whose outcomes cannot be determined *a priori*. Viewed from a legal realist standpoint then, criminal law appears hopelessly ensnared in these rule networks. It is based on this scholarship that I assess the life of criminal law in Sonagachi and Tirupati and query its centrality in the discussion surrounding prostitution law reform.

### ■ A Postcolonial Materialist Feminist Theory of Sex Work Considered

Part 3 of the book is geared toward outlining some features of a postcolonial materialist feminist theory of sex work. In chapter 6, based on the ethnographies of sex work detailed in part 2, I assess the prospects for a feminist theory of redistribution within Sonagachi. Assuming complete enforcement of the formal state law pertaining to sex work, I perform a hypothetical economic analysis of different sets of law reform proposals for the relational dynamics within brothel-based sex work in Sonagachi. I draw on Duncan Kennedy’s extensive contributions to left-leaning law and economics scholarship (1987, 1993, 2002). I acknowledge feminists’ skepticism of neoclassical economics (Fineman and Dougherty 2005; Kabeer 1994, xiv–xv) as a lens through which to study the law, especially as it affects women. Perhaps predictably then, there are few economic



studies of sex markets from a feminist viewpoint (Della Giusta, Di Tommaso and Strøm 2008; Hirshman and Larson 1998). Yet for an industry that is so thoroughly mediated by the market, and where sex workers themselves imbibe its logic and play it out on a day-to-day basis, it appears almost irresponsible for feminists not to at least engage in some fashion with an economic understanding of this market. My hope is that despite the apparently problematic and alienating nature of my methodology, and my characterization of Indian sex workers as rational choice actors some of the time, my experimental approach will produce analytical gains.

There are, generally speaking, four major policy options for regulating sex work (Halley et al. 2006). These are: (1) prohibition or complete criminalization, where all aspects of sex work and actors, including sex workers, are criminalized; (2) complete decriminalization, where any special anti-sex work criminal law is repealed, leaving sex work to be regulated by other laws applicable to all citizens, including the general criminal law; (3) abolition or partial decriminalization, where all aspects of and players in sex work, including customers, are criminalized, although sex workers themselves are not; and (4) legalization, where the form of regulation could vary, but where in addition to the repeal of the anti-sex work criminal law, special rules regulating sex work are put into place. Even as the scope for experimentation on the policy front by states is fast receding with the popularity of the Swedish model criminalizing customers, the existing policy vocabulary itself needs some rethinking, especially since national governments do not typically propose laws that embody “pure” policy positions. Besides, in domestic contexts, significant variations in certain policy types may emerge. In the Indian context, for instance, one such position is legalization for empowerment, which seeks to protect sex workers’ interests in contrast to conventional legalization (Kotiswaran 2011). Even where states adopt a “pure” policy type, their enforcement and adjudication (Halley et al. 2006) might result in a different policy on the ground. The most glaring example of this is where criminal laws against sex work are not enforced, resulting in *de facto* decriminalization. Meanwhile, rather different policy approaches can have very similar outcomes in local sex markets (Hubbard and Whowell 2008; Bernstein 2007a, 164). While keeping in mind the limitations of the policy vocabulary on sex work, in chapter 6, I present an analytical model within which to assess the likely distributional consequences of four legislative proposals for sex work in Sonagachi. These include abolition or partial decriminalization, as visualized by the proposed amendment to the ITPA; complete decriminalization, involving the repeal of the ITPA; and two versions of the legalization for empowerment model proposed in the early 1990s to the then Indian Department of Women and Child Development.

In the final chapter of the book, chapter 7, I delineate other aspects of a post-colonial materialist feminist theory of sex work. Needless to say, both feminist theorizing around sex work and sex workers’ own struggles in support of the work position do not easily lend themselves to an easy categorization



into material and nonmaterial concerns; nor is it particularly insightful for us to attempt such an understanding. If anything, the demands of the NNSW in the Indian context exhibit a complex blend of demands for both recognition and redistribution, to use Fraser's terms. I start by assessing the arguments of Indian sex workers in support of the work position in light of long-standing feminist objections. Having made a case for the work position, I draw on my study of Indian sex markets to formulate a postcolonial critique of the assumptions made by Western feminists, particularly abolitionists, in characterizing the macroeconomic space in which Indian sex markets operate. In particular, I problematize the transition narratives that consign South Asian sex markets to the category of the feudal. I further ask whether the most recent theorization of the hegemony of neoliberal capital over noncorporate capital through the discourse of welfare governmentality is useful to theorize the labor of lumpen proletarian groups like sex workers. I then elaborate on the relationship between sex workers' demands for recognition and redistribution in light of the struggles of the Indian sex workers' movement. Although Indian sex workers' groups articulate transformative visions of both in Fraser's terms, my focus here is on the transformative dimension of redistribution rather than of recognition, relating it in particular to a theory of regulation. I briefly allude to a theory of external redistribution that contemplates in analytical terms the relationship *between* markets in female reproductive labor, such as marriage on the one hand and sex work on the other. An internal theory of redistribution, on the other hand, is more focused on the dynamics *within* sex markets. Here, I draw on the existing scholarship on exploitation to refine it in light of the ethnographic work presented in the book, pointing to the inadequacies of using categories typically geared toward male wage laborers. I query how in light of the work position, the gap between a normative goal and the current market scenario can be eliminated, and conclude by asking whether efforts at self-regulation might be more efficacious compared to reform experiments in formal state law.

### ■ The "Field": Some Notes on Methodology

A few words about my empirical work are warranted here. Predictably, the most significant challenge was gaining access to communities of sex workers. Even thirty years ago, a sociologist studying sex work in Kolkata's red-light areas had to befriend members of its underworld to access sex workers and brothel keepers (Joardar 1984, 86). However, in the wake of the HIV/AIDS pandemic, several Indian NGOs have begun working with sex worker communities, with the oldest groups now having worked with them for more than a decade. Organizations working with sex workers, however, themselves reflect a considerable diversity of normative positions on sex work. Here, my ideological affinity with both the DMSC and Women's Initiatives (WINS), who I worked with in

Sonagachi and Tirupati, respectively, facilitated my access to sex workers. Both the DMSC and WINS are members of the NNSW, a network mostly of NGOs who adopt a rights-based approach to the regulation of sex work. Since 2002, I have been involved in examining Indian labor laws for the NNSW that could apply to sex work. For this, I organized two legal advocacy workshops on prostitution law reform in which sex workers at both locations actively participated. I also participated in two international conferences of sex workers organized by the NNSW. The first conference, in 2002, called *Shanti Utsab* (Festival of Peace), was organized by the DMSC in Kolkata. The second, in 2003, called the Festival of Pleasure, was organized by the Kerala Sex Workers' Forum, an NNSW member in Thiruvananthapuram. On both occasions, I interacted closely with NNSW member organizations, sex workers, social workers, donor agency officers, activist lawyers, journalists, public health specialists, and intellectuals sympathetic to NNSW's struggle.

Despite being members of the NNSW, the DMSC and WINS are organizationally quite different from each other and have varied policy preferences toward sex work. The DMSC has approximately sixty thousand members in West Bengal and has set up several membership-based organizations that are run by sex workers themselves (Durbar Mahila Samanwaya Committee 2004) and that work both for sex workers' social welfare and their rights as workers. WINS, on the other hand, is an NGO that is run by middle-class social work professionals in Tirupati and assisted by peer educators, all of whom were or are sex workers. At the time of my fieldwork, WINS ran a drop-in center for street-based sex workers in Tirupati and provided them a range of welfare benefits and facilities while also conducting advocacy activities for their rights. However, WINS has always been skeptical about workers' rights and believes that complete decriminalization would be sufficient.

Considering the field sites themselves, as of 1994 there were approximately 26,095 sex workers in Kolkata (All India Institute of Hygiene and Public Health 1994, 39) scattered over twenty-one red-light areas. Although sex work was carried out in diverse institutional settings in Kolkata, of which brothel-based sex work was only one setting and arguably an exceptional one,<sup>14</sup> I focused only on brothel-based sex work in Sonagachi, the largest red-light area in Kolkata and the state of West Bengal. This is partly because policy makers tend to prioritize abuse in brothel-based sex work, but also because the brothel is an institution that is a unique product of the sex industry, whose specificity draws from its spatial concentration in a bounded red-light area. I chose Sonagachi on the advice of field coordinators at the DMSC, because in their view, Sonagachi was highly diverse in terms of the size of its brothels, the varying levels of functional independence of sex workers, and their income categories. My empirical work in Sonagachi was based on my interviews of roughly fifty sex workers, brothel keepers, landlords, dalals (touts), DMSC employees, and real estate developers over several weeks during the summers of 2004 and 2006. I supplemented my fieldwork with secondary sources, typically project reports and surveys

produced over the past fifteen years by the DMSC and its HIV prevention project. All names of sex workers have been changed to protect their identity, except in the case of sex workers who are or were in leadership positions at the DMSC, and who have regularly found mention in the media.

Tirupati's sex market is much smaller when compared to Kolkata, with roughly three hundred sex workers in the district that Tirupati is a part of as of 2004 and fourteen hundred as of 2009. Yet my study of sex work there spans diverse institutional settings, including sex work performed in the street, household, and hospitality economies. I worked with WINS over the summer of 2004, and in 2009 I interviewed activists at People's Action for Social Service (PASS), a Bill and Melinda Gates Foundation-funded intervention project among sex workers. I interviewed roughly thirty sex workers and observed group meetings of sex workers and their peer educators at the drop-in center for sex workers run by WINS, fittingly named WINSPACE. In addition, I conducted interviews with local academics, journalists, hoteliers, one "broker," and officials of the Tirupati Tirumala Devasthanams (TTD), the governmental body that operates Tirupati's famous temple. I also accompanied WINS' founder R. Meera on her visits to police officials, the district collector, district courts, criminal defense lawyers, and various sites of sex work both in and around Tirupati and in the neighboring state of Tamil Nadu. I supplemented my fieldwork with local newspaper reports and research reports commissioned by Action Aid India and the Bill and Melinda Gates Foundation.

Anthropologists have critically reflected on what constitutes the "field" and fieldwork, and its importance for the professional identity of anthropologists (Gupta and Ferguson 1997). Yet given the common understanding of ethnography as "the collection of information on the behavior of actors in a particular context over an extended period of time" (Venkatesh 2000, 281), I do not claim the status of ethnography for my empirical work, settling instead for the more legible but not always legitimate (within law schools anyway) category of "sociolegal" scholarship. Ethical discomforts also emerged during my fieldwork. When interviewing sex workers, although I was most interested in the economics of sex work, they invariably felt the need to explain to me how they got into sex work in the first place. Moreover, in Sonagachi, the DMSC's Ethical Review Committee required prior approval for questions relating to the economics of sex work, which I obtained. My disciplinary location and training as a lawyer also made me unusually sensitive to the policy and advocacy aspects of my interactions with the DMSC, WINS, and sex workers. Also having come of age, politically speaking, in the Indian autonomous women's movement of the 1990s, my desire for advocacy was sparked by a commitment to feminist praxis. Consequently, in an attempt to level the hierarchies of privilege, which I brought to the field as a researcher, I made conscious efforts to trade in my professional expertise as a lawyer, at every opportunity possible, to NNSW. In the past four years, however, as the proposed amendment to the ITPA became imminent, spaces for such elaborate conversations with NNSW became

constricted, as sex worker organizations focused all their energies on averting the amendment's passage.

I briefly allude in this context to the physical site of my empirical work. In the case of Sonagachi, the term "field" assumed a particular valence because of the red-light area's sharp geographic demarcation from the rest of the city-space despite the continuities of everyday trade and commerce between the red-light area and the outside world. Having worked in Tirupati prior to Sonagachi, the difference in the behavior of sex workers in Kolkata was also immediately palpable. While sex workers in Tirupati were more willing to let me write notes during the interviews, peer educators in Sonagachi specifically instructed me to leave behind my notebook, and one sex worker first surveyed my bag to make sure I was not carrying a camera before speaking to me. In this sense, sex workers in Sonagachi encoded the special status of the red-light area by fiercely protecting their identity from those who lived and worked outside the red-light area, especially their families. Most of the time, I had to commit interviews to memory and scribble them down at the first possible opportunity. Also, due to the dispersed nature of sex work in Tirupati, I always felt safe working in the field. Although I had briefly visited Sonagachi in 2002, my knowledge of the red-light area was mostly informed by stock portrayals of red-light areas in Hindi cinema. Yet middle-class DMSC organizers or field supervisors insisted that I not visit the by-lanes of Sonagachi unaccompanied or in the evenings. But the protectiveness of DMSC peer educators (who are or were sex workers) toward me arose from a mix of concern for my safety, given my middle-class background, and the worry that the DMSC's reputation would be affected should any untoward incident take place against a "visitor" in a red-light area where the DMSC operates. Yet, and this took me a while to grasp, my own fear of being harmed could not have been more misplaced, given that I was older than thirty and clearly considered too old for this sex market. These assessments of risk, though, have to be considered in light of the conditions that single women in Kolkata face on a day-to-day basis, a point driven home very early on in my fieldwork when a landlord refused to rent me an apartment because I was in the city by myself and he did not want to be responsible for my safety.

Over the course of my work in the field, my privileged gaze as a doctoral student at an elite U.S. law school, and certainly as a middle-class Indian woman, was not uninterrupted. Sex workers routinely refused to engage with me, and yet others spoke only after confirming that I was not a journalist secretly trying to film them. Others were eager for me to record their life stories. Motherhood here was often an invaluable bridge across which we established our common predicaments as women. The materiality of my own body came up in several different contexts in the field. Perhaps because most consultants from funding agencies are either white or are fair-skinned Indians, at the very first sex worker conference that I attended, a sex worker who walked with me to the stadium where it was held asked me where I plied my trade. My dark South Indian

complexion and my Indian attire also meant that some peer educators would not believe that I studied in the United States. Two sex workers once interrogated me on why, despite so many years spent in the United States, I had not gotten fairer. This, too, is the predicament of the “halfie” (Gupta and Ferguson, 1997, 17, quoting Lila Abu Lughod) returning home to do fieldwork. Yet other sex workers mocked me for my indulgent belief that I could ever empathize with them, let alone understand the power of the “whore stigma” when not being a sex worker myself. To illustrate, a peer educator once introduced me to a sex worker who was sitting outside her brothel building. Addressing me as *didī* (elder sister), which is customary in Kolkata, she told me that she felt really nice when people like me came there, and that perhaps I should come live with them—enough to upset my poise as I contemplated her suggestion. Men in the red-light area were also quick to expose the extractive nature of my fieldwork when a pimp, and later a domestic helper at a large brothel, asked me how my interviews of sex workers could possibly help improve the lives of the women in Sonagachi. Not that I had not been aware of the comfort of my position as researcher, writing up my field notes every night in the safety of my temporary “home” while sex workers that I met during the day turned tricks all night. Perhaps seeing the “visitors” that the DMSC periodically brought into the neighborhood, and associating this with the flows of foreign donor money for HIV prevention work more generally, the pimp went even further and asked me point-blank how much I got paid to do my research work. My gaze was thus not just punctured, it was even reversed as activists from NNSW member organizations would often joke that women like me had been “trafficked” into academic positions in the West.

## ■ Terminology

The terminologies used for sex work and sex workers are as varied as they are contentious. Indian feminists, and indeed the National Commission for Women, have for long maintained that the use of the term “prostituted woman” rather than “sex worker” was more appropriate given their understanding that Indian sex workers were forced into sex work by poverty (Joshi 1997). Variations include victims of “commercial sexual exploitation” (CSE) and survivors of CSE, the former used to connote women in sex work and survivors used to connote those rescued from it (Sen and Nair 2004). Throughout this book, however, I use the term “sex work” instead of “prostitution” and “sex worker” instead of “prostitute” partly to de-exceptionalize our consideration of sex work. To elaborate, feminists have argued that the term sex work is useful to discuss third world prostitution “for it allows a recognition of the simultaneity of structures of domination and female agency,” of third world women’s livelihood strategies, of the connections between women’s lives, and to abandon divisive patriarchal politics of good and bad women (Kempadoo 1999, 226). So

I retain the term “prostitution” only when discussing more historical texts or for extended discussions of radical feminism, so as to not obliterate the context in which it is used. Yet, I do not use the term “sex worker” purely for strategic reasons. Despite the emergence of the term “sex worker” in India, largely in the context of HIV prevention efforts, as I will demonstrate in chapter 4, a closer examination of the colloquial terms for sex work reveal a social understanding of both “sex” and “work” independently in terms of labor. More important, these terms for sex work point not only to how sex workers understand their own identity as workers, but also to how remarkably alike the organization of sex work is to work in other labor markets, especially in the unorganized sector.

### ■ The Indian Anti-Sex Work Law

Finally, a word about the ITPA, the federal anti-sex work criminal law in force throughout India and passed pursuant to the postindependent state’s ratification of the 1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. Section 2(f) of the ITPA defines prostitution as “the sexual exploitation or abuse of persons for commercial purposes” (Reddy 2004, 35). The act of sexual intercourse for consideration, therefore, is not illegal *per se*; however, every other act required to carry out sex work, as listed below, is a crime. The aim of the legislation, as made abundantly clear from the preamble to the 1956 version of the ITPA, is “to inhibit or abolish commercialised vice[,] namely, the traffic in women and girls for the purpose of prostitution as an organised means of living” (Beotra 1981, 10). Note the conflation here between trafficking and sex work. The ITPA punishes anyone maintaining a brothel (Section 3), living off the earnings of prostitution (Section 4), procuring or detaining a woman for the sake of prostitution (Sections 5 and 6), and seduction of a person in custody (Section 9) (Reddy 2004). The Act also punishes any person who solicits or seduces for the purpose of prostitution (Section 8) or who carries on prostitution in the vicinity of public places (Section 7) (*ibid.*). Moreover, Section 15 allows the police to conduct raids on brothels without a warrant, based on the mere belief that an offense under the ITPA is being committed on the premises (*ibid.*). As such, under Section 20, which is vaguely worded, a magistrate can order the removal of a prostitute from any place within his jurisdiction if he deems it necessary to the general interest of the public (*ibid.*). In addition, the Act provides for the establishment of corrective institutions in which female offenders are detained and reformed. There is no specific section punishing the customer, but customers can be prosecuted under Sections 7 and 8 for prostitution in a public place and soliciting, respectively. As a result, the legal sale of sex under the ITPA would be restricted to scenarios where a sole sex worker sells sex for her own benefit in a discrete manner in a place that is not in or near any public place, but even she can be evicted by a magistrate under Section 20, in the interests of the general public.

Apart from the ITPA, specific provisions of the Indian Penal Code, 1860 (IPC) deal with sex work. These relate to kidnapping (kidnapping or abducting with the intent to secretly or wrongfully confine a person [Section 365] and/or kidnapping or abducting in order to subject a person to grievous hurt, slavery, and so on [Section 367]); slavery (buying or disposing of any person as a slave [Section 370] and/or habitual dealing in slaves [Section 371]); unlawful compulsory labor (Section 374); and prostitution (procurement of a minor girl [Section 366-A], importation of a girl from a foreign country [Section 366-B], selling a minor for the purposes of prostitution [Section 372], and/or buying a minor for purposes of prostitution [Section 373]) (37 All India Reporter Manual, 1).

In conclusion, as I set out to offer a postcolonial materialist feminist theory of sex work that builds on the work position, I am well aware of the critique that may follow, namely, of being collaborationist (MacKinnon 2000, 706) or of proposing a “radical sounding” theory, which is in fact “a disengaged theory that corrodes material resistance to power” (ibid., 710). While unable to offer any certitude as to the life that words might assume in the world “out there,” I can only admit to being motivated by precisely the sentiment that MacKinnon espouses, namely, to be vigilant of the unintended consequences of the positions we take—hence my belief in the possibility of a work position that offers a de-exceptionalist account of sex work while at the same time being attentive to questions of power. In other words, there will be many protest marches against abusive brothel keepers to participate in.

### Revisiting the Material

#### Recasting the Sex Work Debates

In the recent past, feminists have experienced a self-confessed stalemate over theorizing on sex work and trafficking (O'Connell Davidson 2002, 84).<sup>1</sup> This has been exacerbated by intense legal activity at the international, national, and local levels, and the playing out of the two main feminist positions (Jeffreys 2009; Kempadoo 2005, xiii). Against this backdrop, in this chapter I argue that feminists need to reconsider rather than perpetuate a caricatured view of the existing feminist sex work debates. Toward that end, in this chapter, I rewind the harried presentation of these debates outlined in the introduction. I start by laying out these caricatures of the abolitionist and sex work advocate positions. I then focus on what I see as two significant developments in the contemporary sex work debates. First, feminists increasingly occupy the middle ground between the two oppositional camps. I briefly explore some of the implications of the politics of the middle ground. Second, I argue that both feminist camps are in fact becoming more focused on the materiality of sex work, particularly the political economy of sex markets. This is especially true for the radical feminist analysis of sex work. I ask how the two camps' vision of the materiality of sex markets differs in relation to their theories of commodification, exploitation, the micro-political economies of sex work, and the macro-political economic backdrop against which they are set. I ask what this return to the material might suggest for a feminist work position and for policy interventions in the post-colony in particular. In chapter 3, I add the materialist feminist perspectives on sex work to this discussion. Through a genealogy of materialist feminist theorizing on sex work, I compare its points of overlap and difference with radical feminism in particular.

As mentioned in the introductory chapter, feminists in the two oppositional camps on the prostitution question (Sunder Rajan 2003; O'Connell Davidson 1996, 180; Overall 1992, 707) have been characterized variously as structuralist/individualist (Halley et al. 2006), radical feminist/sex worker activist (Jeffreys 2009, 16), as abolitionist/sex work lobbies (O'Connell Davidson 2002, 84), as neo-abolitionist/sex worker rights advocates (Doezema 2005, 70), as sexual



romanticists/sexual libertarians (Shrage 1994, 88–89), as favoring the subordination approach versus the autonomy approach (Hernández-Truyol and Larson 2006), or as promoting an antiviolence agenda as opposed to a rights-based agenda (Balos and Fellows 1999, 1292). Broadly speaking, the two camps are animated by the question of whether sex work is violence or work. I use the abolitionist/sex work advocate dyad to describe these debates as opposed to the structuralist/individualist dyad I employed previously (Halley et al. 2006), because although abolitionists are structuralists, not all structuralists are abolitionists. To illustrate, although sex workers' groups and feminists supporting them are repeatedly portrayed as liberal individualists, they vigorously object to this categorization and view themselves as structuralists.<sup>2</sup> Also, although opposition to sex work comes from many feminist quarters, they are not necessarily abolitionist and in this sense differ from radical feminists who are necessarily abolitionist. Hence, I use the terms “radical feminist” and “abolitionist” interchangeably.

### ■ Abolitionists and Sex Work Advocates: The Caricature

I rehearse below a familiar caricature of the radical feminist position on sex work, emphasizing its view of the institution of sex work, its theory of exploitation, of the role of the law in sex markets, and finally its opposition to the work position. For abolitionists, since sex, sexuality, and gender are shot through with relations of power (MacKinnon 1982, 516–44), women's sexual subordination is a “collective female class condition” (Barry 1995, 8). Prostitution is not merely a discrete social phenomenon where women sell sex for money but is instead paradigmatic of violence against women and conditions all violence against women along a continuum (Balos and Fellows 1999, 1236). It is the most extreme and crystallized form of all sexual exploitation, which in turn is the foundation of women's subordination and the discrimination against them (Barry 1995, 11). Note here that exploitation is used to connote a *political* rather than an *economic* condition. Prostitution being at the bottom of the hierarchy of male supremacy (Dworkin 1993) means that rape, domestic battery, and sexual harassment all share with prostitution some statement or manifestation of sexual ownership but are not prostitution (Baldwin 1993, 68).

Vital to the radical feminist objection to any form of sex work, whether it involves violence or not, is harm, its greatest harm involving one of the most severe forms of objectification, namely, market-mediated objectification, whereby goods or services are bought and sold in the market (Ertman and Williams 2005, 3); in other words, commodification. Commodification in and of itself is harmful, so that the conditions under which sex workers commodify are irrelevant (Barry 1995, 112). In this sense, a man is not interested in indifferent, disembodied services but contracts to buy sexual use of a woman for a given period (Pateman 1983, 207). In Dworkin's words, “It is the use of a woman's

body for sex by a man, he pays money, he does what he wants” (1993). Given the integral connection between sexuality and sense of the self, a sex worker is more bound up in sex work than other labor (Pateman 1983, 207), and she can thus never be whole. The only available analogy, then, is gang rape punctuated by a monetary exchange where men do whatever they want and communicate with each other through women’s bodies. Prostitution thus embodies male hatred of women, and although all women are objects, the sex worker is dirty, suffers a specific form of dehumanization, and is literally often killed. Calling for the treatment of sex work as labor then assumes that sexual dehumanization is the original human condition (Barry 1995, 71).

There are thus two types of violence in sex work: the paid-for violence, which is the “ordinary everyday violence of unwanted and often painful penetration,” and unpaid-for violence, including rape, beatings, murder (Jeffreys 2009, 186), sexual harassment, acts equivalent to torture (Farley 2004, 1093), and a host of physical and psychological health problems, including post-traumatic stress disorder (*ibid.*, 1097, 1105). Although brothel-based sex work may be less harmful than street prostitution, post-traumatic stress disorder is experienced in both. Harm, then, is the great leveler. When such exploitative acts are “repeated over and over in and on woman after woman, that is oppression” (Barry 1995, 70). Thus, countering the violence in sex work alone, while leaving unaddressed the deep harm and oppression perpetuated collectively, is not enough. Radical feminists understand prostitution as a social practice that perpetuates inequality (Balos and Fellows 1999, 1296). All men benefit from prostitution (Dworkin 1993) irrespective of whether a man himself patronizes a sex worker or not. Thus, resisting sexual harassment would be impossible if johns were permitted to sexually harass sex workers (MacKinnon 2005, 998; Farley 2004, 1117, quoting D’Cunha). Further, prostitution shores up the social hierarchies of race, class, and ethnicity (Farley 2004, 1095). The cataloged harms of sex work are irreparable. Legalization and decriminalization only render harm invisible rather than ameliorate it (*ibid.*, 1089). And should we view the distancing, disengagement, dissociation, and disembodiment characteristic of sex workers’ lives as survival strategies marking sex worker agency, we are mistaken, for they are merely stages of dehumanization (Barry 1995, 29) and constitute harm that cannot even be contained in human memory (*ibid.*, 280).

For decades now, sex workers and their advocates have tried to counter the radical feminist script of sex work by insisting on some modicum of sex worker agency and consent, despite the severely constraining circumstances under which women take to sex work. Radical feminists have been circumspect of this claim, because in their view, consent becomes critical only when we separate violence from oppression. After all, if we were good structuralists and understood hegemony, we would know that “Consent to violation is a fact of oppression. Any oppression. All oppression” (Barry 1995, 65). In the radical feminist view then, sex work with or without the consent of the sex worker is nothing but consent to the lack of consent, namely, rape. Similarly, Raymond

asks what of a situation where a customer pays a sex worker to enact a rape scene; how can we distinguish this from real rape? In this particular incident, she is unwilling to entertain a scenario where a sex worker may well reject such a demand beforehand or negotiate the exact terms of the enactment with the customer, possibly in the presence of another sex worker or brothel keeper, so as to reserve the right to file a complaint of rape should she be injured.

Buried deep in the radical feminist theory of sex work is a perplexing theory of sex. Consistent with what Viviana Zelizer calls the Hostile Worlds view,<sup>3</sup> where sex and the market may not intermingle, sex is considered to be an integral dimension of the human being (Barry 1995, 33), “a positive human experience, enhancing rather than destroying human lives” (ibid., 57). In this theory, sex had to be mutual; the difference between sex without love and prostitution was that the former was reciprocal while the latter constituted unilateral subjection (Pateman 1983, 563). Thus, affective sex as a human experience of personal dignity and equality (Barry 1995, 319), and enjoyed with consent, respect, and pleasure (ibid., 68), was *outside* of structured patriarchal power. This radical feminist vision of sex is in direct opposition to the MacKinnonite assertion that “force and desire are not mutually exclusive. So long as dominance is eroticized, they never will be” (1983, 650). Thus, for MacKinnon the issue is less whether there was force and more whether consent is a meaningful concept (ibid.). This remarkable dissonance within radical feminism when it comes to sex work re-emerges in other contexts,<sup>4</sup> in particular, its view of marriage in relation to sex work, a theme I elaborate on in chapter 3.

It is invariably on the question of whether sex work should be considered a form of legitimate work that feminists across the political spectrum are the most conflicted. For radical feminists, sex work being paradigmatic of violence against women cannot be work under any circumstances. Their opposition to the work position ranges from a fundamental challenge to the epistemology of sex work as formulated by sex work advocates to the reiteration of the domino effects of legalization and decriminalization on sex workers and women in general. They pose a threshold query for the work position regarding the type of labor that sex work involves: is it slave labor, the exploited labor of feudalism, or class exploitation of capitalism? (Barry 1995, 65). It does not help that feminists have not asked of sex work what Marxists and materialists have asked of labor, namely, whether certain conditions of labor should be permissible at all. After all, radical feminists oppose the work position primarily because it occurs under conditions of slavery and slaverylike practices, although legal scholars use slavery in a more technical and therefore restricted sense rather than rhetorically as abolitionists typically do.<sup>5</sup> Even if they were to use the term slavery more precisely, radical feminists think of sex work as exceptional because it involves the sale of sex. Labor involving personal services, such as psychotherapy, counseling, massage, and unremunerated and exploited domestic labor, are fenced off from sex work, because these service providers are not considered to be selling any aspects of themselves (Barry 1995, 66; Pateman 1983, 562). Even

paid domestic labor differs from sex work because fewer women are trafficked into it; it can be performed by men, is not dependent on women's biology and oppression (Jeffreys 2009, 12), and involves socially necessary labor, whereas men's need for sexual services is merely socially constructed (*ibid.*, 19).

The second objection to the work position is that sex workers cater to a lopsided and predominantly male demand for sex (Pateman 1983, 563). Even where women buy sex from men, they are fewer in number, and any race or class privileges that they have are erased by gender privilege, for men are not harmed as much by sex work as women are (Jeffreys 2009, 148–51). Not unsurprisingly then, Pateman characterizes Lars Ericsson's argument that the gendered nature of sex work could be transformed by ensuring female access to male sexual labor as a liberal fantasy that renders invisible the highly gendered phenomenon of prostitution (Pateman 1983, 563). For failing to see this truly exceptional and gendered nature of sex work, sex work advocates are characterized as liberal individualists who use the term "sex work" to normalize prostitution (Barry 1995, 296) signifying a politics of despair (*ibid.*, 297).

Radical feminists view the policy landscape as a zero-sum game. If other feminists do not call for criminalization, they are assumed to advocate its legalization or decriminalization. Sex work advocates in particular are viewed as advocating legalization (Hernández-Truyol and Larson 2006, 403), although sex worker organizations are generally quite wary of legalization, as it implies increased state control. Sex workers have traditionally had a complicated relationship with the state and the law enforcement machinery, and this is not limited to third world settings. The police routinely harass and discriminate against sex workers by requiring payment of monetary and sexual bribes, even in industrialized countries (Bernstein 2007a, 58; Raymond 2004, 1170), yet radical feminists fail to take into account the significant differences, from the point of view of sex workers, between legalization and decriminalization. Having characterized sex work advocates or the prostitution lobby (as Barry labels them) as supporting legalization, radical feminists warn of its deleterious effects. Every form of sexual objectification and dehumanization will normalize the sex of prostitution (Barry 1995, 72), and universal prostitution will undermine marriage and promote child prostitution (Pateman 1983, 565), thus perpetuating inequality. Nonprostitute women will designate a certain category of women as sex workers because this is the only way they know that they are not whores (Barry 1995, 73). Some states, such as Belize, will even endorse sex work as a livelihood strategy. Legalization would thus result in a "bottomless (sex) market" (Farley 2004, 1088, quoting Young 2003). Ultimately, even if sex work advocates' intentions were well meaning, expecting sex workers to realize workers' rights someday was nothing but a romantic political fantasy. Hence, the appropriate model for the study of commercial sexual exploitation was not the labor model but the violence against women model (Leidholdt, Coalition Against the Trafficking of Women, Presentation to the UN).

To summarize, radical feminists view prostitution as paradigmatic of violence against women. Objectification and commodification in and of themselves constitute harm and inequality while precluding sex workers' consent, so the context in which sex work is performed is immaterial. Important in this view is that exploitation is understood as a political rather than an economic condition. The harms of sex work are numerous and irreparable, and any sex worker agency is merely a manifestation of her false consciousness in the face of her acute sexual subordination. Against this overwhelming power of patriarchy, however, radical feminists carve out a sphere of mutual affective sex.

### ■ Rethinking Sexual Slavery: The Response of Sex Work Advocates

Even as the Western radical feminist view of sex work gained prominence on the international stage, particularly in UN settings, sex workers' groups such as the International Committee for Prostitutes' Rights mobilized through the 1980s to express an antiabolitionist viewpoint. Over the past decade, resources made available through HIV/AIDS prevention projects worldwide have fostered the mobilization of thousands of sex workers in the developing world who have become increasingly vocal in international debates on sex work and trafficking. Along with feminists who support the work position in their home countries, sex workers have critiqued radical feminists from the United States and Western Europe. Kempadoo notes of Barry's work, for instance, "Barry's work has informed a plethora of activities and inquiries by women's organizations into the subject of prostitution and has helped form an international consciousness and discourse about the sex trade that is solely informed by western, non-sex working women's definitions of sexual relations and prostitution" (1998, 12). Kempadoo's charge of parochialism is hardly restricted to Western radical feminists. She is equally critical of what she calls the neocolonialist exclusion by Western sex workers' groups of third world sex workers from their struggles (*ibid.*, 13). In the past decade, as sex workers' movements and feminists in the third world context have sought to counter the moral panics generated by the specter of human trafficking and increased state action, especially through criminalization, they have once again presented their intervention as an alternative to the "radical feminist, predominantly Western view" dominating the trafficking debates (Kempadoo 2005, viii).

Sex work advocates in the Western and third world contexts have also criticized radical feminists for not paying heed to the context in which sex markets operate. This has involved a series of deconstructionist moves pertaining to binaries that are collapsed in radical feminist thinking.<sup>6</sup> At the very outset, there is an acknowledgment that "the boundary between commercial and non-commercial sexual relationships is neither sharp nor impermeable" (O'Connell Davidson 2005, 34). As economic sociologists like Viviana Zelizer (2005) have

demonstrated, prostitution cannot be ring-fenced when heterosexual relationships are often also economic relationships (O'Connell Davidson 2005, 56). The adult/child binary is also problematized, so that a normative stance toward child sex tourism countenances the difference between a four-year-old and an eighteen-year-old (Sanghera 2005, 19; O'Connell Davidson 2005, 140, 142). Similarly, the forced/free prostitution binary is repeatedly called into question (Doezema 1998). In relation to the objectification of sex, Nussbaum, in a hugely clarificatory moment, tells us that "in the matter of objectification, context is everything" (1999, 227). Objectification, she claims, is characterized by at least one or more of seven modes of use: ownership, fungibility, instrumentalism, violability, autonomy, agency, and subjectivity (*ibid.*, 218), where no one mode necessarily implies or precludes other modes (*ibid.*, 220–21). This is unlike radical feminists who, for Nussbaum, assume that any instrumentalization of the female body necessarily implies all the other modes of objectification.

Encapsulating the thrust of the critique articulated by sex work advocates, O'Connell Davidson observes:

And yet the idea that human beings can be neatly divided into fixed, impermeable groupings defined by their difference from one another—Adult and Child, free worker and slave, voluntary migrant and trafficked person, agent and victim, subject and object—is just that, an *idea*. In reality, the lines between tyranny and consent, domination and freedom, objectification and moral agency, childhood and adulthood, are not and never have been clear-cut, nor do they map neatly onto one another." (2005, 149; original italics)

Complicating binaries in the sex work debates also involves setting them out on a continuum (Kempadoo 2005, 127). Thus, sex work is de-exceptionalized through its comparison with the labor performed in varied labor markets. At the very outset, there is an acknowledgment that all of us, except the independently wealthy and unemployed, take money for the use of our body (Nussbaum 1999, 276). Sex work advocates further believe that the commodification of emotion is not inherently destructive and that workers can delineate their core selves from the labor they perform (Kempadoo 1998, 5). Not surprisingly then, sex work is for them on par with emotional labor, such as airline service work, acting, psychotherapy, massage work, or child care (*ibid.*), as well as with labor involving bodily services, even those that are intimate, including wage work, domestic work, entertainment, university teaching, and being a "colonoscopy artist" (Nussbaum 1999). Moreover, there are other occupations that are more harmful than sex work but are legal. Sex workers similarly produce varied impressions of their work. Some feel they perform an art, a therapy, or a rite, while others feel selling sex is analogous to typing or running a machine. Both see benefits in being called sex workers (Agustín 2007a, 73). The misapplication of slavery discourse to sex work and trafficking (Ditmore 2005, 123) is highlighted with the suggestion that debt bondage, indentureship, and hyperexploitative

contractual arrangements are the most common forms of contemporary slavery (Kempadoo 2005, xix). Following from this de-exceptionalizing move, the exploitation within the sex industry finds parallels in other informal and unregulated sectors, so that the goal is to recognize sex work as work and seek its radical transformation, not its abolition (Kempadoo 1998, 8, citing Anne McClintock).<sup>7</sup> As for the lack of worker autonomy in sex work, that is but a condition of the modern world (Nussbaum 1999, 290). The differential treatment that sex work provokes, then, has to do with stigma (*ibid.*, 285), and feminist denunciations of sex work may well be based on prejudice (*ibid.*, 286).

The normative decentering of sex work as an exceptional economic activity extends to trafficking discourse by highlighting the similarities between trafficking and migration as well as trafficking that occurs for sex work and for other work. Despite the portrayal of trafficking for sex work as exceptional, and indeed even involving organized crime networks, it often involves the same agents as those involved in illegal migration (Ahmad 2005, 225), with people migrating for the same reasons they are trafficked for (*ibid.*, 211). In fact, trafficking in the white slave trade itself was sex worker migration (Doezema 1998, 44), and contemporary trafficking is closer to undocumented migration and forced labor (Kempadoo 2005, ix) than we think. Similarly, people can be trafficked for a range of activities other than sex work, making it inappropriate to conflate all trafficking with one potential destination, namely, the sex industry or conflating trafficking with sex work itself (Ahmad 2005, 216–17; Ditmore 2005, 107; Wijers 1998, 69). Thus, ignoring trafficking in these other sectors only legitimates their abuse (Halley et al. 2006, 390–91).

Needless to say, fundamental to the sex work advocate canon is its emphasis on sex worker agency. Feminists and activists alike reject the portrayal of sex workers exclusively as victims and are instead invested in “the respectful recognition of subjectivity and personal agency” of even sex workers working under conditions of debt bondage and indentureship (Kempadoo 1998, 8). This understanding of agency is not limited to adults but also extends to children engaged in sex work (O’Connell Davidson 2005, 55; Montgomery 1998, 146–47). In the process, the presumption of their false consciousness is rejected (Montgomery 1998, 146). Instead, sex work advocates point to the exceptionalism of the sex work debates in the face of the more general trend in social theory to recognize a woman as “simultaneously ‘victim’ and ‘agent’” (Kempadoo 2005, xxiii). If in fact agency is understood as one of the hallmarks of a tradition of feminist praxis, then the sex work debates are the last bastion of feminist theorizing to be immune to this trend, when feminists as the “good girls” construe women to be “violently manipulated and wrought into passivity and acquiescence” (Kempadoo 1998, 9). If anything, postcolonial feminists reach even further back in time to suggest that the failure to recognize a subject position for the third world woman with her complex subjectivity, and separate from that of the victim and criminal (Kapur 2005b, 36), results in feminists basing their interventions on problematic colonial-era constructs of the third



world victim “as thoroughly disempowered, brutalised and victimized” (ibid., 115) and infantilized or passive (Sanghera 2005, 13).

Although an affirmative theory of sex is less pronounced in the writings of third world feminists and sex workers’ groups adopting the work position when compared to North American sex workers’ groups, they express skepticism of the universalist understanding of intimacy as a prerequisite of sex (Kempadoo 1998, 5). Instead, they point to the hierarchies that a notion of unalienated sex sets up between good and bad sex, normal/abnormal sex, healthy/unhealthy sex, and pleasurable/dangerous sex, which paves the way for dubious political alliances with religious fundamentalists and moral conservatives (O’Connell Davidson 2005, 108).

### ■ Problematizing the Caricature, Occupying the Middle Ground

Although the polarized representation of feminist positions that I have already presented is justified to a certain extent, these are no more than ideal, typical formulations. After all, even those who oppose the commodification of sex will acknowledge the need for it on pragmatic grounds (Radin 1996). Similarly, sex work advocates will also recognize that women choose sex work out of a highly restricted set of livelihood options and experience violence in it. However, unable to resolve the intractable dilemmas over the terms of this debate—is sex work a form of work or violence, is it chosen or coerced, are sex workers agents or victims—most feminists outside the two camps belie an uneasy truce between these ideal types of analyses. I call this feminism that occupies the space of the continuum “middle-ground feminism” for lack of a better word. Middle-ground feminism in the context of the sex work debates is not a well-formulated position that feminists necessarily self-identify with. Instead, it is my term for a group of sophisticated feminists who have attempted to break away from the polarization that the sex work debates otherwise presume, throwing light on more complex normative possibilities in the process. Feminists in the field will thus routinely pay obeisance to the caricaturized version of the bitter divide afflicting sex work debates but are just as quick to distance themselves from its polarizing effects to stake the middle-ground position. This is especially reflected on the policy front with wide-ranging feminist support for complete decriminalization, leading Shrager to comment how remarkably unlike other feminist issues this is (2004, 83).

Middle-ground feminism is animated by the desire of some feminists to explicitly make peace between feminists on the two extreme ends of the theoretical continuum (Sunder Rajan 2003; Van der Veen 2001, 30). Observing that such reconciliation is becoming increasingly popular among feminists, Sunder Rajan tracks it along the empirical, regulatory, and normative axes. For her, the intense feminist disagreement on sex work lies in their differing descriptions of its empirical aspects, which are in turn fueled by varied disciplinary frames



and methodological imperatives (Sunder Rajan 2003, 142). Similarly, Ann Lucas calls on feminists to acknowledge the “facts” of prostitution, namely, that prostitution could be a site of resistance but is no guarantor of it; recognizing this “fact” will bridge the gap between the proprostitution and antiprostitution camps (1998, 432). Further, although feminists adopt varied political positions so that “abolitionists read prostitution as structure or *system*, [and] decriminalization advocates as *practice* (sex work)” (Sunder Rajan 2003, 144; original italics), they are not entirely wrong in doing so. Meanwhile, Shrager calls on “feminist leaders” not to view “proprostitution advocates” as uncritical and unreflective as to the capitalist patriarchal societies we live in, and for proprostitution advocates not to view feminist leaders as naïve about human sexuality and unaware of their own class biases (1994, 88). She calls instead for depolarizing the issue and forming a broad feminist coalition (*ibid.*, 89).

Many middle-ground feminists tend to be structuralist in that they are deeply skeptical of the work position, and while empathetic to sex workers’ demands for nondiscriminatory treatment, wonder if sex workers have not seized on the “the foundational unease with the unresolved status of commercial sex” (Sunder Rajan 2003, 117) in advocating for workers’ rights. Asserting that this legitimizing move is not necessarily a demystificatory one, they call on sex work advocates to provide a thicker account of the agential role of the sex worker rather than valorize sex worker agency (Sunder Rajan 2003, 140; O’Connell Davidson 2002, 87). After all, the sex worker agent is no more than the hounded woman in Joseph Raz with an external facade of agency but no real choices (Hernández-Truyol and Larson 2006, 425). References to sex worker choice are not sufficient, they assert; it is the conditions of work that are determinative (Hernández-Truyol and Larson 2002, 201). In other words, if prostitution is in reality forced or compulsory labor, exploitative labor, or discriminatory labor, its voluntary nature will not insulate its practice from challenge (Hernández-Truyol and Larson 2006, 428). In the process however, the sex work advocate position is misunderstood as drawing on the liberal theory of property with its underlying beliefs in individual autonomy, choice, and free consent (O’Connell Davidson 2002, 96).

In critiquing the sex industry, middle-ground feminists “embrace the contradiction of abolishing the system while empowering the practice, indeed . . . achieve the first by means of the latter” (Sunder Rajan 2003, 146). This translates into supporting the rights of sex workers but not the right to sex work (D’Cunha 1997, 252; Overall 1992, 723–24); supporting empowering practices of individual sex workers within the sex industry while being against the institution of prostitution itself (Sunder Rajan 2003, 146, endorsing Lynn Sharon Chancer’s argument that feminists should support prostitutes while opposing prostitution; Sullivan 1997, 165; O’Connell Davidson 2002, 85; Overall 1992, 723); and acknowledging the agency of sex workers but interrogating why sex work should be viewed as work (Sunder Rajan 2003, 138–40). Even assuming that voluntary, adult prostitution is work, the argument is that the system can be

so highly exploitative and analogous to sweatshop, child, or bonded labor that it should become extinct or undergo transformation (Hernández-Truyol and Larson 2006, 393).

I will address specific feminist objections to the work position in chapter 7, many of which are similar to those posed by radical feminist abolitionists. But for now, I will simply highlight the differences between the two. The first critical difference is that middle-ground feminists, unlike radical feminists, adopt an experimental posture toward prostitution law reform. In the Indian context, Sunder Rajan is open to the idea that decriminalization or legalization for empowerment may in the long run undermine the system of prostitution while enhancing the rights of sex workers.<sup>8</sup> In what seems remarkably like legalization for empowerment, Shrage suggests that “left regulationism” may be preferable to complete decriminalization (1994, 83), since the latter does not address the conditions of coercion and exploitation in sex markets. Several other feminists also support decriminalization (Lucas 1998, 433–35; Satz 1995, 64; Chancer 1993, 166; Overall 1992, 708, 722; Shrage 1989, 361). Hernández-Truyol and Larson recommend that sex work be the subject of an illegal contract whereby sex workers can demand payment for services rendered or protest poor working conditions (2002, 207), but under which the employer would be penalized, as well as the john, pimp, and all other business interests (*ibid.*, 206). Radical feminists, on the other hand, view prostitution law reform as a zero-sum game and are unlikely to go beyond abolition or partial decriminalization, which criminalizes all parties in the sex industry except for sex workers.

The second difference between middle-ground feminists and radical feminists lies in how they visualize the system of prostitution. Middle-ground feminists like Sunder Rajan call for abolishing the system of prostitution while empowering the practice and supporting sex workers, and to pursue decriminalization while envisaging the transformation of prostitution into something other than it is today.<sup>9</sup> In contrast, radical feminists would not condone any aspect of the sex work transaction because the possibility of sex worker empowerment is foreclosed in their scheme. Despite this significant difference, middle-ground feminists do not propose how we might achieve their paradoxical suggestion of dismantling the sex industry while empowering transactional sex work. For instance, if customers, as the primary exploiters of sex workers are criminalized, how are sex workers to make a living, and how is it even possible then to protect their interests? If on the other hand, one were to pursue decriminalization or legalization for empowerment, improving the conditions in sex work would likely increase the supply of sex workers. It is therefore unclear how this will contribute to dismantling the system. In the absence of such an analysis, however, a call to eliminate the system while protecting the individual runs the risk, in the current political climate, of being appropriated into the abolitionist discourse, given the popularity of demand-driven measures such as partial decriminalization.

To elaborate, partial decriminalization has of late been a coalescing point for feminists, not least because all feminists agree that sex workers should not be penalized for their work. Moreover, in the charged international political and legal context surrounding human trafficking today where Article 9 of the UN Protocol requires states to address the demand for sexual services and the U.S. administration under the TVPA pressurizes governments to assess their prostitution law regimes, partial decriminalization has proved to be both non-controversial and politically expedient for national governments. The world-wide popularity of the Swedish model, which criminalizes demand, confirms this trend. Indeed, in India itself, an amendment to the ITA decriminalizing sex workers but penalizing customers had been tabled before the Indian Parliament for almost three years, the potentially deleterious consequences of which have been elaborated on (Kotiswaran 2008; Tandon and Grover 2006). These governments have, in middle-ground feminism,<sup>10</sup> a moderate feminist voice to legitimate their proposals for prostitution law reform without examining the immediate ramifications for sex workers of criminalizing customers. Conversely, for an abolitionist feminist who is uncomfortable with the objectification and commodification entailed in sex work, middle-ground feminism affords her the opportunity to support the sex worker while finding her work and her source of income, namely, the customer, repulsive. Indeed, Indian feminist abolitionist D'Cunha makes the exact same distinctions, that is, the need to separate the individual from the institution and the need to support the rights of sex workers but not the right to sex work (1997, 252). At least in the Indian context, there is every indication that this view has been propelled into governance mode (Halley et al. 2006, 340) and informs expert governmental bodies like the National Commission for Women and the National Human Rights Commission, advising the Indian state on prostitution law reform.

### ■ The Regulatory Middle Ground in Trafficking Discourse

The considerable pace of trafficking law reform over the past decade presents feminists with an occasion to assess the drawbacks of the middle ground. One thing is clear—a politics of the middle ground is not without cost. These costs, as I will show, include unanticipated setbacks to redistributive legal projects and sex workers' mobilization and an increase in state powers, as well as an impetus to cultural nationalism. Animating one dimension of the conceptual middle ground in international law is the divide between forced and voluntary prostitution. In her chronicle of the international legal debates on sex work and trafficking through the 1990s, Doezema tracks the emergence of a range of international human rights declarations that drew the distinction between forced and voluntary prostitution, calling for state action against the former (1998, 40). Sex work advocates, in particular, were positive about the 1997

report commissioned by the then UN Special Rapporteur on Violence against Women Radhika Coomaraswamy, which delinked the relationship between trafficking and prostitution by articulating the forced/voluntary dichotomy. Although these developments were preferable to the abolitionist model, which had been in place for at least a hundred years (Doezema 1998, 37), and the increasingly shrill discourse of abolitionist NGOs like the Coalition Against Trafficking in Women (CATW), the forced/voluntary dichotomy soon assumed a life of its own. As Doezeema notes, “The distinction between free and forced prostitution has implicitly been recognized by the international community. But international actors and agreements are rarely as vocal about promoting prostitutes’ rights as they are in condemning forced prostitution. *No international agreement condemns the abuse of human rights of sex workers who were not ‘forced’*” (1998, 41; *italics mine*).

The agreement in Doezeema’s view on forced prostitution was possible precisely because there was no agreement on what constitutes voluntary prostitution: “It can be seen as a compromise: those who, for whatever reason, wish to eliminate all prostitution can at least be satisfied that the ‘worst’ abuses are being dealt with and those who support self-determination are relieved that this right is not threatened” (1998, 41–42).

Ultimately, focusing on forced prostitution provided a way out for those unwilling to face issues raised by the sex workers’ rights movement. Where the forced/voluntary divide was thus meant to resist a discourse of sex workers as deviants, it had been “co-opted and inverted, and incorporated to reinforce systems that abuse sex workers [*sic*] rights” (Doezeema 1998, 47). Moreover, the divide helped reinforce stereotypes of women as innocent (trafficked sex workers) and guilty (voluntary sex workers), which when mapped onto the third world/first world divide meant that there was no recognition that third world women might in fact choose to do sex work out of necessity (Kapur 2005b, 130).

The implications of the forced/voluntary divide for feminist politics became particularly palpable with the passage of the UN Trafficking Protocol in 2000. The processes informing the passage of the UN Protocol and the profiles of the players and their arguments have been well documented (Jeffreys 2009, 159–60; Chuang 2006, 444; Halley et al. 2006; Doezeema 2005; Gallagher 2001). These suggest that over the course of the UN Protocol negotiations, national governments aligned themselves along the familiar fault lines of abolitionism and anti-abolitionism. The forced/voluntary dichotomy reflected through “the qualifier of consent” (Doezeema 2005, 80) animated the negotiations. Amid contentions over several phrases and terms in the UN Protocol, abolitionists demanded a blanket negation of a sex worker’s consent in the definition of trafficking, whereas the compromise arrived at was that her consent should be made irrelevant only under certain circumstances.<sup>11</sup> Key terms in the UN Protocol relating to the purpose for which trafficking occurred, such as the “exploitation of the prostitution of others” and “sexual exploitation” also remained undefined in

order to recognize the difference between forced or involuntary sex work and voluntary adult participation in sex work (Doezema 2005, 80, quoting Jordan). This, however, meant that the active, aware sex worker rather than the passive, innocent one lost the cover of international law (*ibid.*).

It is in relation to domestic legal adaptations of the UN Protocol definitions that the problematic nature of the forced/voluntary dichotomy plays out spectacularly. For instance, the Sex Trade Prevention Act, 2004, passed in South Korea managed to place the country in Tier 1 of the U.S. TIP Report but legislated that only victim sex workers were decriminalized and not sex workers who worked voluntarily. Interestingly, abolitionists like Jeffreys have argued that it was because of sex work advocates' insistence on sex workers' agency and the forced/free distinction that it had now been deployed domestically to promote a conservative male sexual ethic (2009, 206). Similarly, in India a report commissioned by the National Human Rights Commission recommended an interpretation of existing law to decriminalize soliciting by survivors of "commercial sexual exploitation" but not by victims who continued to do sex work (Sen and Nair 2004, 231). Whether the Indian government will in the future go as far as the South Korean government or not, the spirit of the UN Protocol is to reduce demand for sex work, and when governments use partial decriminalization to achieve this end, they could well decide to decriminalize sex workers selectively, namely, based on whether they enter sex work voluntarily or not.

The unintended consequences of the middle ground in domestic law soon became evident at the international level. Feminists had already pointed out the exceptionalist treatment of sex work and trafficking in the negotiations leading up to the UN Protocol and its eventual enforcement. To counter this, the concept of trafficking had been expanded to include forced labor, forced marriage, and slaverylike practices, but the implementation of the UN Protocol was less focused on nonsexual trafficking and nontrafficked migrant labor, thus "legitimizing" their abuse in Thomas's terms (Halley et al. 2006, 390–91). Moreover, although trafficking was sought to be viewed as a human rights violation rather than as a law and order or morality-related issue, in reality, crime prevention and public morality continued to be foregrounded as the core of the antitrafficking discourse (Sanghera 2005, 10), as were concerns with immigration control (Kempadoo 2005, xiv).

The UN Protocol is said to have resulted in significant damage to human rights concerns, as developed countries enlisted the efforts of developing countries for a migration control project (Hathaway 2008, 56) for "border control is clearly at the heart of the protocol" (*ibid.*, 6; Halley et al. 2006, 388–90; Gallagher 2001, 994). This could be because NGOs were so focused on the Trafficking Protocol that "only passing attention was paid to the issue of migrant smuggling" (Gallagher 2001, 1001). As a result, a major negative externality of the Trafficking and Smuggling Protocols was the criminalization of smuggling, which ultimately only fosters trafficking while preventing refugees from exercising their

rights under international law (Hathaway 2008, 32). Meanwhile, the integration of the antitrafficking discourse into existing labor market policies and legislation (Kempadoo 2005, xxvi, citing Chew) remained a long way off.

As for slavery, although promoted as the key to fighting modern slavery, the UN Protocol in fact embodied a highly restricted understanding of slavery by focusing only on a few methods of “dealing” (i.e., trafficking) rather than exploitation itself and limiting itself to transnational rather than domestic trafficking too (Hathaway 2008, 10–11). Ultimately, it now emerges that in focusing all their energies on countering each other during the UN Protocol negotiations, abolitionist and liberal feminist NGOs may have failed the international human rights community (ibid., 46). In the most withering critique of the UN Protocol to date, Hathaway argues that the passage of the 2000 Trafficking and Smuggling Protocols led to taking out what he views as a highly partial fight against slavery out of the core of human rights law and institutions into the mainstream of international law (ibid., 54).<sup>12</sup>

Last, but not least, the UN Protocol negotiations had interesting effects on feminist politics. Feminists in both camps were hardly euphoric and were indeed ambivalent about whether the UN Protocol signified a victory for them. Abolitionists reluctantly acknowledged that they would have much preferred the adoption of their 1991 draft UN Convention Against Sexual Exploitation but viewed the UN Protocol as being better than nothing (Jeffreys 2009, 202), with some registering the resultant consent provisions in the definition of trafficking as an instance of success (Gallagher 2001, 986). Meanwhile, sex work advocates used the passage of the UN Protocol to signify their success in expanding the sectors involving trafficking, which had traditionally been limited to sex work (Kempadoo 2005, xii). Yet other sex work advocates experienced the UN Protocol negotiations as a setback to their organizing. Doezenia notes that sex workers’ groups had formally rejected the UN Protocol, given the long history of the abuse of antitrafficking legislation against sex workers, and that their only route to participation in the negotiations was as individuals (2005, 77) aligned with the liberally oriented human rights caucus, although sex workers’ groups hardly understood themselves as liberals. As has been obvious, the prospects of liberal feminism and its notion of consent for an agenda of sex workers’ rights (ibid., 82) were mixed, to say the least.

### ■ Feminism Remodified; or, The Political Economy in Abolitionism

Well before the political inadequacies of a middle-ground position became apparent, the caricature of the two feminist camps was changing. The abolitionist and sex work advocate camps were characterized as presenting two epistemologically opposed notions of *prostitution* as violence and work, respectively (Doezenia 2005, 72). Correspondingly, the question about trafficking was whether it was always a nonconsensual mode of recruitment into sex work or if

it was also at times a form of migration undertaken under conditions of highly constrained consent. While these characterizations of the ongoing sex work debates are largely accurate, in my view they eclipse important changes in the ways that feminists in both camps were beginning to describe the *sex industry* itself. If, in fact, as MacKinnon once argued, we can distinguish social theories of power and distribution in terms of what she called their *method*, in the past decade there seems to have been a distinct shift in the feminist method of theorizing sex work, which is most explicit for radical feminists. Breaking with Marxism, radical feminism had once claimed for itself a post-Marxist methodology (MacKinnon 1983, 639) thereby becoming *unmodified*, such that it would be the final conclusion and ultimate critique of Marxism (MacKinnon 1982, 544). Surprisingly then, radical feminist abolitionists have trained their lens on the materiality of sex work, particularly its political economy, a space that has been arguably abdicated by materialist feminists, at least in the United States. Remarkably then, Jeffreys starts her book *The Industrial Vagina* with precisely these words: "Prostitution did not wither away" (2009, 1), analogizing it to the fate of the state and other social problems that were presumed to wither away upon the success of the proletarian struggle. The book thus takes as its starting point the mistake that materialist feminists are assumed to have made in deferring the solution to the problem of prostitution until after the revolution. But for this shift in method, some conceptual ground had to be cleared. This was achieved by characterizing the materialist feminist view of sex work as supporting the work position (Jeffreys 2009, 17, 18, 20; Baldwin 1992, 102). It is almost as if the work position was inevitable for materialist feminists since they had traditionally focused less on violence against women and more on issues of work and the economy, yet a renewed abolitionist look at the materiality of sex work only made it violence all the more.

For their part, materialist feminists had already highlighted the differing notions of class and commodification inherent in the assumptions of the two camps; abolitionists, according to them, viewed the sex work transaction as the sale of the sex worker's self or body under a class process of slavery (Van der Veen 2001, 35–36), while sex work advocates viewed it as providing a service under conditions of self-employment (*ibid.*, 36). However, based on a comparison of the notions of materiality embedded in the discourse of radical feminists, sex work advocates, and materialist feminists, I suggest that they make assumptions of materiality that go further to include the institutional settings in which sex work is performed, the micro-political economy of sex markets, and the macro-political economy within which the sex industry operates. Ultimately, I am interested in asking what these notions of the material in the radical feminist, sex work advocate, and materialist feminist literature mean for postcolonial sex markets.

Radical feminists have long attempted to explain the deleterious outcomes of a policy change like decriminalization or legalization in *market* terms. They assert that legalization will initiate a domino effect to create a larger sex



industry where the increased demand for sex work will trigger an increase in the supply of sex workers through trafficking (Hughes 2000, 12). Janice Raymond claims that with legalization, the use of sex workers became mainstream and that brothels in the Australian province of Victoria expanded in size (2004, 1163). Farley reports that while the number of legal brothels in Victoria doubled in one year, that of illegal brothels grew by 300 percent (2004, 1099), which meant that the vast majority of sex workers would not benefit from legalization (Jeffreys 2009, 177). Legalization sometimes moved sex work indoors where there was less physical violence, but the levels of post-traumatic stress disorder remained similar (Farley 2004, 1100). Any potential benefits for sex workers themselves flowing from the characterization of their sex work contracts as legal are not considered. Instead, since sex work was nothing but harm, legalization by increasing the quantity of sex work only produced more harm. There is little interest in the radical feminist camp in exploring either the complex, unintended consequences—economic or otherwise—flowing from policy options, beyond characterizing all state policies as irreducibly patriarchal, abusive, and exploitative of women (Barry 1995, 221).

The radical feminist turn to an economic understanding of sex work is most visible in their call to criminalize the demand for sexual services as the surest way to abolish sex markets. Raymond concedes the possible naïveté of such a position “This may be labelled simplistic, unnuanced, or conceptually impaired; however, a prostitution market without male consumers would go broke” (2004, 1160). The market analysis unfortunately does not extend to the heavy price that sex workers will pay if demand-driven proposals are put into place. Radical feminists also deal with supply-side economics. Taking Marxist feminism as its point of departure, radical feminism had always problematized a simplistic, economic theory, where women were thought to resort to sex work out of poverty, arguing instead that women sold sex because cultures the world over taught them that their sexuality was the only thing that was valuable. This in turn explained the presence of both poor women and sexually abused women within the ranks of sex workers. Yet in a recent article by Donna Hughes, she acknowledges a decidedly economic “poverty-plus” factor to explain why women enter sex work, namely, shadow economies and organized criminal networks, which, as a product of globalization, enticed women into sex work (2000, 11).

## ■ From Female Sexual Slavery to Global Sexual Exploitation

What is probably the most remarkable turn to the economic in the radical feminist literature has been an understanding of the impact of the macro-political economy on sex markets. In the 1990s, Kathleen Barry, an influential voice in the radical feminist camp, demonstrated a keener appreciation for precisely



such developments. Tellingly, her canonical 1979 book, *Female Sexual Slavery*, was ensconced in a vocabulary of sexual slavery, sexual oppression, and sexual domination. Female sexual slavery was defined as being:

present in ALL situations where women or girls cannot change the immediate conditions of their existence; where regardless of how they got into those conditions, they cannot get out; and where they are subject to sexual violence and exploitation . . . Female sexual slavery is not an illusive condition; the word “slavery” is not merely rhetorical. This is not some condition in which a woman’s or child’s need for love allows her to fall into psychological patterns that make it possible for her to accept abuse with love or to feel joy in pain. Slavery is an objective social condition of sexual exploitation and violence. (Barry 1979, 40; emphasis in original)

Thus, sexual slavery was an objective condition characterized by sexual violence and exploitation out of which there was no escape. Yet, in her description of the several objective instances of slavery, Barry offered no distinct theory of exploitation, much less its economic dimension, other than to say that sex workers rarely kept a substantial amount of their earnings. Instead she critiqued the inadequacies of an economic analysis of prostitution, “which defines economic exploitation as the primary instrument of female oppression” (1979, 9). Economic exploitation for Barry here was nothing but an unjust economic order that forced women, particularly poor women from ethnic minorities, into sex work and poor black men into pimping. In other words, economic exploitation amounted to no more than a cause for women’s entry into sex work.

By 1995, Barry’s second book was titled *The Prostitution of Sexuality: The Global Exploitation of Women*. Sexual slavery was no longer the animating motif of Barry’s work; instead we find a theory of sexual exploitation,<sup>13</sup> defined as “a practice by which person(s) achieve sexual gratification or financial gain or advancement through the abuse of a person’s sexuality by abrogating that person’s human right to dignity, equality, autonomy, and physical and mental well-being” (1995, 305). Here, sexual exploitation was not an aspect of female sexual slavery and women’s literal lack of freedom. Rather, exploitation was defined in more transactional terms, as a financial or sexual advancement through the abuse of a person’s sexuality. But note here the broad conception of abuse to cover any sex that did not enhance dignity. Further: “Sexual exploitation objectifies women by reducing them to sex; sex that incites violence against women and that reduces women to commodities for market exchange. Sexual exploitation is the foundation of women’s oppression socially normalized” (ibid., 1).

The thrust of the radical feminist theory of sexual exploitation seems to be “gain through abuse.” This abuse involved objectification, which incited violence and in turn led to commodification. Commodification in and of itself constituted harm. There was no further account of the measure of advancement

or gain obtained by the exploiter. In other words, there was no elaboration on the processes of commodification or specific patterns of exploitation. Instead, a substantial aspect of the radical feminist theory of sexual exploitation was anchored in an elaboration of the macro-political economy and its complex relationship with the sex industry, as I will shortly detail. Similar shifts are discernable in the work of other radical feminists like Sheila Jeffreys, whose recent book is called *The Industrial Vagina: The Political Economy of the Global Sex Trade*. But why this turn to the political economy by radical feminists—and why now? Barry attributes it to the bottomless nature of the sex industry, which she claims to have witnessed in the late 1980s and 1990s. Sex workers were now engaged in prostitution without limits, characterized by a “race to the bottom,” borrowing a term from developments in low-wage international labor markets and illustrated through examples of street-based and drug-dependent sex workers. Even assuming that these women were putting up a fight for their survival, bottoming out meant that another category of women, namely, immigrant women, had no agency. Bluntly put, “bottoming out means that human agency is not there” (Barry 1995, 43).

Perhaps in response to the critique that radical feminism lacked context, Barry’s theory of sexual exploitation proposed that patriarchy had varied political and economic strategies for deploying sexual subordination. She delineated the historical stages in this deployment as trafficking, military prostitution, sex industrialization, and normalization (1995, 50). The use of the term history here is pertinent, for Barry envisages a guiding telos for these stages. She remarks, “While each of these 4 stages of sexual exploitation are found in any historical period or in any stage of a country’s economic development, they also constitute progression, one leading to another with economic development and prosperity” (ibid., 51).

Using the UN Human Development Report as a measure of global economic disparity, Barry plots domestic sex markets according to the stages of national economic development. The development index, Barry finds, “directly parallels the difference” between the “trafficking of women in feudal conditions and sex industrialization in economic development.” South Asia, for instance, exemplifies the first stage in the development of sex markets, namely, trafficking, which, she notes, as a virtual slave trade (1995, 166) is extensive in “rural, poor and pre-industrial societies” (ibid., 165). Here she conflates trafficking, a mode of recruitment into sex work, not just with sex work or a particular class process in sex work, namely, sexual slavery (both of which are familiar radical feminist moves) but with a particular stage in the development of sex markets. While she acknowledges that “trafficking is the oldest, most traditional form of procuring for prostitution” (ibid.), she uses it primarily to denote a certain stage in the relationship between the macro-political economy and sex markets. Moreover, the constant slippages between the characterization of South Asian sex markets as being at the trafficking stage, and that of South Asian sex workers as slaves trafficked into sex work without their consent, are unmistakable.

The stage that a country's sex market is in also shapes its supply-and-demand profile. The poor lowest-rung trafficking countries supply sexual labor (*ibid.*), whereas sex-industrialized countries supply male customers, although trafficking can also occur between two poor agrarian and preindustrial countries (say, from Bangladesh to Pakistan or Nepal to India).

Why are South Asian women prone to trafficking? The first reason is economic backwardness, since most of women's income-generating labor is in the illegal or unregulated market; really, the informal economy where having been marginalized from the standard labor force, women earn a "survival income" (Barry 1995, 196). However, the explanation is not purely economic. A country's low economic development is also a proxy for its political and social backwardness. "Trafficking" countries suffer from state feudalism, with religion offering an ideological infrastructure for support (*ibid.*, 181). Trafficking involves procuring women from remote, indigenous tribes where traditional family and religious practices are thought to devalue girl children or reduce girls to sex service, encouraging parents to sell their daughters (*ibid.*, 178). When economic development accelerates, these customs are packaged into sex tourism (*ibid.*, 180). Similarly, rural prostitution figures in this narrative as a loosely structured and relatively unsystematized phenomenon in the village (*ibid.*, 179), whose social acceptance is an extension of state and societal feudalism (*ibid.*, 184).

Corresponding to the stage of national economic development is the form of the family. Trafficking countries suffer from "marital feudalism" (Barry 1995, 178), defined as the familial ownership of women and children. Here, arranged marriages facilitate the transfer of women from being their parents' legal property to being the legal property of their husbands (*ibid.*, 157)! Jeffreys, in a similar but less stageist explanation for world sex markets, writes of servile marriage practices in the non-West. A servile marriage typically results from a sale or commercial exchange (Jeffreys 2009, 38) and includes mail-order brides from third world countries, sale for marriage in India, trafficking for marriage in China, forced marriage, temporary marriage, arranged marriage, honor killings, consanguineous marriages, and child marriages in immigrant communities in the West, Asia, and Africa (*ibid.*, 53). All of Jeffreys' examples of servile marriage occur in the barbaric East rather than the progressive West, where despite the problems with companionate marriage, the latter is assumed not to be polluted by any form of commercial exchange. The only instances of servile marriage in the West are practiced by immigrant communities (*ibid.*, 39) or spread by the forces of globalization, as with the mail-order bride business (*ibid.*, 46). In many respects, marital feudalism or the "stark reality of traditional patriarchal marriage" embodied in the exchange of women between men (*ibid.*, 44) seems alive and well in the developing world. I will return to a critique of this dramatic tendency to write South Asia out of history in chapter 7, having tested Barry's thesis against the concrete political economies of two Indian sex markets. For the time being, suffice it to note that even as postcolonial feminists problematize the radical feminist characterization of the third

world sex worker as a sex slave by asserting the agency of the “sexual subaltern” (Kapur 2005b), radical feminists (Jeffreys 2009, 22–26) respond by trotting out a familiar economic structure, in this case feudalism, to quash any such claims.

The second stage in Barry’s theory of sexual exploitation is sex industrialization, which involves the mass commodity production of a product—sex—from and in the human self, constructing it into that which was not (selves are not originally sexed or prostituted) for the purpose of market exchange (1995, 122). For Jeffreys, industrialization involves the transformation of prostitution “from an illegal, small-scale, largely local and socially despised form of abuse of women into a hugely profitable and either legal or tolerated international industry” (2009, 3). Here, prostitution relies on both the formal economy of multinational corporations and the informal economy of organized crime (*ibid.*, 4). Sex industries are sectorized and capitalized, involving business connections with credit card companies, airlines, hotel chains, and tourist companies that participate in sex tourism packaging. The stages of sex industrialization include military prostitution, sex tourism, and national industrial development, in that order (Barry 1995, 123). Sex tourism and mail-order bride marketing are the two major sex industries built on military prostitution (*ibid.*, 138), as exemplified in the case of Thailand. In Jeffreys’ account, however, sex tourism can develop independent of military prostitution, “where men as individuals or in groups travel for fun, on business, for sports events or political assemblies” (2009, 131). In the initial stages of national development, prostitution benefits from rural-urban migration, because despite women’s incorporation into the labor force, they face discrimination, so they turn to the sex industry (Barry 1995, 123, 160–61). Millions of sex workers are thus marginalized from the accelerated mainstream development process (*ibid.*, 176–77). Sex work here is not characterized by coercion or slavery but rather by economic destitution (*ibid.*, 52), where women are tempted into sex work because they are consumers as well. Thus, prostitution is not merely an unfortunate short-term by-product of industrialization that will decrease as women’s wages in the labor force increase. If anything, Barry argues, as prostitution develops, it becomes industrialized and “multinational sex-industry conglomerates . . . become autonomous economic forces” (*ibid.*, 162).

With higher levels of economic development in postindustrial societies, sex markets evolve into the next stage through normalization. In these societies, women no longer need to marry to be economically self-sufficient, and consent to patriarchal rule is manufactured through pornography and the strip club industry. Where sexual exploitation was earlier private and feudalistic (Barry 1995, 54), it was now public, social, and industrial (*ibid.*), with women finding prostitution to be the most promising way to attain certain levels of materialism (*ibid.*, 123–24). After all, 86 percent of Thai prostitution was local, not foreign, and only 2.1 percent of sex workers surveyed in a study claimed to have been forced into prostitution. This leveled with increased male demand, as men had more expendable income for prostitution as leisure (*ibid.*, 160, 186). The radical

feminist theory of sexual exploitation thus offers a theory, not only for how sex markets evolve over time, but also for women's changing motivations in entering sex work. In the trafficking stage, sex workers were deceived and coerced into sex work; during industrialization, labor market policies produced economic coercion (*ibid.*, 196); and in normalized sex industries, greed motivated entry into sex work. The regulatory framework kept pace with these developments, as neither the industrialization (Jeffreys 2009, 179) nor the normalization of sex work (Barry 1995, 147, 163) was possible without legalization. Hence, in Thailand, sex work was treated as entertainment for legal purposes (*ibid.*, 147), and, paradoxically, its crackdown on forced prostitution was also part of the overall normalization of sex work (*ibid.*, 146).

Economic development for radical feminists not only shaped and normalized sex industries, it also fostered capitalist market-liberal ideologies to perpetuate misunderstandings about sex work. Sex work advocates' assertion of sex workers' consent to the harm of sex work (Barry 1995, 70), their reconstruction of sex work as legitimate work (Jeffreys 2009, 1), and their use of neoliberal economic language, like agency, entrepreneurship, and rational choice (*ibid.*, 15–16, 18, 26), were all products of such an ideology. The supposed benefits of legalization and decriminalization for sex workers, then, were as ephemeral as the promises of trickle-down economics (Raymond 2004, 1184). Yet, the AIDS lobby only perpetuated this language so that governments did not have to challenge men's right to buy sexual services (Jeffreys 2009, 15–16). The reframing of sex work in this context was a part of the larger backlash against feminism motivated by market ideology and its emphasis on individualism and consumerism (Barry 1995, 83).

I argue here that the radical feminist theory of sex work has fundamentally shifted over the past decade. Where it earlier presented exploitation as a facet of female sexual slavery, it now points to a theory of exploitation that is still articulated as a political condition but achieved by gain through abuse. Further, it outlines the various macroeconomic scenarios in which the reduction of sex to exchange takes place and how local patriarchies and the macro-political economy facilitate homologous developments in marriage, the political system, the law, and ideology to exploit women in sex work. The centrality of patriarchy to the radical feminist canon is, however, not displaced in the process. Despite meticulously tracing the footprints of capital across sex markets the world over, and demonstrating that capitalism and patriarchy are intertwined in the production of global sexual exploitation, radical feminists do not explicitly theorize the role of capitalism in relation to patriarchy. There is at best the acknowledgment that local patriarchies deploy the economy for their interests, or that the consent to the harms of sex work under patriarchy bolster the interests of capitalism. Thus, the constituent elements of both the structures of capitalism and patriarchy figure in the theory of global sexual exploitation. Yet the methods of synthesis that we have come to recognize, at least in relation to the Marxist feminist accommodation of sex to the Marxist analytic (MacKinnon

1989), are not discernable. To elaborate, in the radical feminist theory of sexual exploitation, class is not collapsed or subordinated to sex, nor do we find traces of what MacKinnon calls the “substitute contradictions” approach wherein the categories “identified by each theory is taken as valid by the other and methods are cross-applied” (ibid., 63). Instead, the expansive narrative of the radical feminist turn to the political economy is meant to primarily reinforce the radical feminist analysis of prostitution as nothing but violence.

Not only that, where prostitution was earlier thought to be paradigmatic of violence against women, inviting a focus on the sexuality of prostitution, radical feminists now claim that sexuality itself has been prostituted, as prostitution is being normalized in nonprostitute sexual exchanges (Barry 1995, 16), bringing subordination back into private lives and personal relationships (ibid., 57). Prostitution is now no longer the experience of a discrete class of women, but of all women. Prostitution as the paradigm of women’s sexual subordination has today become a factual reality. Similarly, pornography does not just shape the demand for sexual services or for trafficked sex workers anymore but is trafficking itself (MacKinnon 2005, 999, 1004), as well as being a form of prostitution (ibid., 996, 1001). These shifts in the breadth and depth of the explanatory powers of the radical feminist theory on sex work over the past decade are exemplary. This is perhaps concomitant with the successes of radical feminism in the real world and in governance mode, especially in international criminal law, international humanitarian law, and trafficking law reforms (Halley 2008, 90–123). In the process, it has achieved what it once claimed Marxism aspired to, namely, to “encompass all inequality within a critique of the ‘totality’ of social life” (MacKinnon 1989, 60), a totality that theorizes the role of both patriarchy and capitalism in producing sexual subordination. This is undoubtedly feminism *remodified*.

### ■ Structuralism Denied: The Political Economy in the Work Position

Even as radical feminism has emerged remodified with an account of overlapping structural forces, the position of sex work advocates, including from the developing world, who I consider here, has traditionally suffered from being mischaracterized as liberal. However, sex work advocates articulating a third world perspective are typically grounded in the politics of the global south and are hence deeply concerned about globalization, structural adjustment policies, the feminization of poverty, migration, and development policies promoting sex tourism as an industry (Jagori 2005). They acknowledge that sexual labor has become a primary source of profit and wealth for domestic economies and international industries within global capitalism (Kempadoo 1998, 8). They view sex tourism and the mail-order bride business as practices implying “imperialism, sexism, and racism rolled into one,” resulting in the “total exploitation of womankind—sexual, economic, and cultural” (Chew 2005, 65–66). Similarly,

they view trafficking as shaped by hegemonic and local patriarchies, globalized capitalism, and international hierarchies around racial, religious, and national differences (Kempadoo 2005, xii). This structuralist focus of feminists, who as sex work advocates adopt the work position, is hardly surprising considering that third world feminisms have often had to engage in embittered dialogues with the Marxist Left to carve out a legitimate space for feminist analysis. Third world feminists have thus produced synthetic forms of feminism, which Janet Halley has helpfully termed as “convergentist” feminism (2006, 24), reflecting both radical feminist and materialist feminist positions.

As for the radical feminist claim that asserting sex worker identity amounts to no more than a politics of recognition rendering sex work advocates as liberal individualists (Jeffreys 2009, 17–18, quoting Miriam), sex work advocates assert that sex workers’ movements in the global south are less invested in celebrating sex worker identity or reclaiming stigmatizing terms like “whore.” Instead, the sex worker subject is not reducible to her sex worker identity (Agustín 2007a, 73). Sex work is viewed as an income-generating activity for both men and women (Kempadoo 1998, 3; Montgomery 1998, 146), one in which they may engage on a part-time basis or for a short period to tide over a specific financial problem or goal, or to save money for seed capital for an alternative venture or career (Kempadoo 2005, 128). Concomitantly, the demand of Indian sex workers, that they be treated as part of the unorganized sector, exhibits a robust claim for redistribution.

At the same time that sex work advocates are cognizant of the role of capitalism and patriarchy in women’s lives, they do not attribute simplistic, causal powers to either, much less theorize, like radical feminists, the determinative relation between sex markets and the stage of national economic development. Given the range of socioeconomic as well as cultural factors that drive women into sex work, they in fact argue that poverty alone does not cause women to enter sex work (Montgomery 1998, 143). Even migrants’ reasons cannot be reduced to economics alone (Agustín 2007a, 25). Moreover, the “poverty as force” approach is ultimately classist, racist, and unable to acknowledge that a poor woman in the third world might in fact choose to do sex work over other occupations (Doezema 1998, 43).

The sex work advocate emphasis on structural forces, instead of sharpening the bright lines sought to be drawn between trafficking and migration or sex work and other forms of labor, blurs them so that sex work is not viewed merely as violence or trafficking as an exceptional mode of recruitment unique to the sex industry. A focus on both the structural aspects of the sex industry and sex worker agency means that trafficking is understood not as the “enslavement of women” but as the “trade and exploitation of labor under conditions of coercion and force” (Kempadoo 2005, viii–ix). Similarly, studying trafficking at both the macro- and microlevels (Jagori 2005, 171) reveals that the inequalities of the global economic order cause trafficking to be structurally similar to migration (Kempadoo 2005, xi). When we look to those who migrate, they are



not the ones struggling to cover subsistence needs or lacking any education (Marshall and Thatun 2005, 46) and may instead possess social capital and the ability to evaluate and negotiate bargains (Agustín 2007a, 29). The solution to undermining trafficking as a business (Marshall and Thatun 2005, 55) then lies not in demands of the state to enforce criminal law but to align migration policies with labor market realities (*ibid.*, 61).

While acknowledging the incredibly gendered nature of sex work and sex markets, sex work advocates also point to how these gendered relations are being contested and redefined (Kempadoo 1998, 6) by the increasing numbers of male sex workers. In addition, the presence of transsexual, transgender, transvestite, and intergender sex workers is also highlighted (Agustín 2007a, 69). Thus, for sex work advocates, employing a feminist mode of analysis does not preclude the consideration of male, transgender, and intergender interests. If anything, it entails highlighting the harms to men from trafficking (Ditmore 2005, 109) by problematizing the assumptions in trafficking discourse that smuggled victims are men and trafficked victims are women.

Sex work advocates' perceptions of the political economies of sex markets are shaped by keeping the empirical door resolutely open. A view that is ground-up rather than from an ivory tower or from political platforms (Kempadoo 2005, ix, xiv) is emphasized. Sex workers' own perspectives are greatly valued. Empiricism is deployed to problematize trafficking myths and simplistic typifying narratives of the trafficking episode (Frederick 2005, 127–28). Claims of antitrafficking activists are rendered questionable for lack of empirical support (Kempadoo 2005, xix). Similarly, sex work advocates challenge the role of the media in perpetuating decontextualized and ahistorical generalizations about sex work through muckraking reporting (Cheng 2008, 8) in contrast to ethnographic research and its situated knowledge. One of the outcomes of such an empirical approach is its ability to throw light on a long litany of unanticipated consequences that result from policies relating to sex work and trafficking, ranging from the several negative consequences of the Bush administration's anti-sex work policies (Brennan 2008; Ditmore 2005, 120–21) to the impact of antitrafficking policies on local sex markets. Marshall and Thatun, for instance, illustrate how suppressing trafficking activities results in the push-down, pop-up effect, whereby “the problem is reduced or pushed down in one place, only to emerge somewhere else” (2005, 44). In some instances, tougher border controls designed to counter trafficking can even have the opposite effect of that which is intended, by encouraging migrants to remain in the country of destination rather than stay in the country of origin (*ibid.*, 51). Antitrafficking rescue operations can also end up providing capital to brothel keepers from whom trafficked women and children are rescued for future trafficking. Anti-trafficking policies also often target minor links in the trafficking chain rather than those who benefit the most from the exploitation of women and children (*ibid.*, 44). In all instances, the fluidity of the sex industry as it adapts to policy changes is acknowledged.



## ■ The Shifting Registers of the Feminist Sex Work Debates

In this chapter, I have tried to highlight two distinct shifts in the contemporary feminist sex work debates. The first amplifies the problematic consequences of a politics of the middle ground, which is most visible in the policy context. Here, whether consciously promoted by feminists or arrived at due to the lack of consensus, the middle-ground position circumscribes the space for feminist reform while being taken over by the agendas of the state. In the process, the charge of the global sex panic around human trafficking incites the state to deploy a feminist rhetoric to sustain problematic distinctions between categories of female reproductive laborers. I have further recast the caricatured presentation of the feminist positions around sex work and trafficking in terms of their engagement with the materiality of sex markets. For radical feminism, a shift in feminist method has not necessarily interrupted or problematized its script of sex work solely as violence. Its theory of sexual exploitation continues to be a political one, albeit inflected by a reinvigorated understanding of the stages of economic development, which in turn fundamentally shape sex markets. Meanwhile, sex work advocates, while cognizant of the role of both capitalism and patriarchy in shaping sex markets, offer more contingent understandings of the circumstances under which women's sexual labor enters circuits of economic exchange. In chapter 3, I ask whether feminists most invested in a materialist analysis, namely, materialist feminists, had a more sophisticated vocabulary for making sense of these aspects of the sex industry, and if their method may not be more illuminating for a feminist work position.

### Theorizing the Lumpen Proletariat

#### A Genealogy of Materialist Feminism on Sex Work

Little has been written about socialist feminism, and almost nothing that affirms it.

Karin Brodine, *Socialist Feminism*

#### ■ Materialist Feminism Reconsidered

In the previous chapter, I demonstrated how the contemporary feminist sex work debates are often presented in caricaturized terms and that retraining the lens away from *outcomes* to feminist *method* reveals that both abolitionists and sex work advocates harbor certain views about the materiality of sex work. This is perhaps inevitable given the market-oriented dimension of sex work, unlike other feminist issues. Moreover, it is hard for feminists to seriously disagree that sex work, in some very general sense, is organized under the twin structures of both capitalism and patriarchy. In this chapter, I present a genealogy of feminist writings on sex work that, unlike radical feminism, have prioritized the study of capitalism. It turns out that if Brodine's observation above is generally true for socialist feminist theory, then it is all the more relevant for materialist feminist theories of sex work. There is little by way of socialist feminist theorizing on sex work, and what exists is firmly opposed to the work position, despite being misrepresented as supporting it.

Why consider materialist feminism then, one might ask? First, because as I will demonstrate, materialist feminism offers valuable insights for a work position in terms of its feminist *method*, and second, because the international proliferation, historically speaking, of Marxism and socialism has meant that far from being an alien political language, socialist feminism resonates well, both within the Indian feminist and sex worker communities. More generally, as Western feminists become keen to advance both economic justice and sexual justice, rather than one at the expense of the other, materialist feminism remains a touchstone body of work for conceptualizing sexual labor as a species

of social reproduction (Bedford and Jakobsen 2008). For the purposes of this chapter, however, I use the term “materialist” instead of socialist except when referring to classical socialist feminists. After all, socialist feminism in its bid to reinvent itself is now no longer concerned only with gender and class, but also with race, ethnicity, and sexual orientation (Holmstrom 2002, 1). Moreover, the shifting fortunes of socialist feminism in the North American context mean that not all feminists that I consider in this chapter would necessarily identify themselves as “socialist feminists.” I clarify my use of the term “material” here without going into many of the internal debates within socialist feminism over the terminology pertaining to Marxist/socialist/materialist feminism, which in turn signified varying substantive foci within its body of work.<sup>1</sup> Neither is my purpose here to sharply delineate and thereby fetishize the distinctions between the material and the social or cultural. Reinforcing the divide between the two, after all, fails to recognize the mutually constituted nature of these realms, besides obscuring the political histories they embody (Nesiah 2003, 36, Bedford and Jakobsen, 2008). Moreover, any account of the practice of sex work is indeed bound to be saturated with an elaboration of both. Indeed, in the realm of sexuality studies, it is what Hennessy calls “cultural materialism” and is exemplified by the queer theoretical work of Michael Warner and Judith Butler, which has yielded remarkable insights into the material constitution of the sexual, the term “material” being used to connote the materiality of norms rather than the social relations of labor, as in historical materialist approaches to sexuality (Hennessy 2000, 80).

I relate my use of the term “material” to the specific context of the sex work debates, where the more conventional materialist concerns, such as the organization of labor and social production, are weakly articulated. I use materialist feminism to merely amplify these aspects of sex work while bringing to bear on the sex work debates other analytical categories animating materialist feminist accounts of sex work, including those of labor, work, class processes, class consciousness, the market, marketization, commodification, and the political economy. My goal is to counterpose materialist feminist approaches to sex work with that of radical feminists and sex work advocates on the basis of which to articulate a postcolonial materialist feminist theory of sex work. At the same time, however, for me such a theory does not necessarily translate into a regulatory framework of workers’ rights or conventional legalization. If anything, cognizant that any policy proposal used to regulate sex work is highly likely to adversely affect sex workers’ interests, my aim is precisely to decouple the seamless relation between a normative position and any resultant policy. For the time being, I ask if and how the materialist feminist *method*, irrespective of its ultimate normative stance on the work position, enables us to formulate redistributive questions.

My overview of materialist feminist theories of sex work in this chapter is highly selective and is hardly a definitive genealogy, despite its chronological presentation. Despite the limited materialist feminist writing on sex work

per se, there have emerged over time distinct shifts in the ways that materialist feminists have theorized female reproductive labor, including sex work, which are pertinent to the work position. The materialist feminist interjections that I chronicle are from classical socialist feminism circa 1917, the wages for housework campaign of the 1970s and 1980s, dependency feminism, and finally, materialist feminist analyses of postindustrial capitalism. Despite my apparently seamless presentation of this genealogy, it is cobbled together from writings in varied disciplines with differing methodological imperatives that are not in explicit dialogue with one another. If anything, the genealogy bears the imprint of broader developments in social theory, especially the structuralist/poststructuralist divide. Perhaps more challenging is the marginality of materialist feminist scholarship, such that its intellectual footprint cannot always be comprehended in intelligible terms. In fact, this unintelligibility runs so deep that it throws up terminological conundrums at the outset. How does one characterize, for instance, feminists who unpack the genealogies of late Western capitalism? Are they postmodernists, neo-Marxist, post-Marxist, or merely engaged in recuperating Marxism by reinterpreting it? These preoccupations, although not central to the chapter, constitute its immediate background.

### ■ Revisiting the Woman Question: Alexandra Kollontai on Prostitution

Both socialist thinkers who engaged with “the woman question” or “the historic socialist concern for women’s emancipation” (Vogel 1995, 24) and socialist feminists attempted to theorize prostitution. The former identified the family and its inherent division of labor as the source of women’s oppression, while the latter was more interested with social production among bourgeois and working-class families. Meanwhile, classical socialist feminists like Alexandra Kollontai, writing circa 1917, reflected both concerns but were geared toward the social production argument. I use Kollontai’s elaborate writings primarily to help us reevaluate the way that marriage features in contemporary feminist sex work debates.

Writing about prostitution in the context of the sexual crisis sweeping through Russia post-1917, Kollontai exhorted the revolution’s leaders not to relegate the sexual question to the private sphere or assume its resolution after basic socioeconomic reorganization in society (1977, 237), observing instead that the relationship between the sexes had been a constant feature of social struggle throughout history (*ibid.*, 239). Kollontai, like Engels, understood prostitution not as a distinct institution but as coexistent with marriage. Prostitutes were “women who sell their bodies for material benefit” (*ibid.*, 262), and this covered “all those who avoid the necessity of working by giving themselves to a man, either on a temporary basis or for life” (*ibid.*, 262). Thus, a housewife was also a prostitute. Kollontai, however, also listed as prostitution a poor woman exchanging sex for food and a woman exchanging sex for luxury items, for

favors relating to her business, or for promotions at work (*ibid.*, 270–71). So prostitution occurred not only in the sex industry but also in marriage and the workplace. Kollontai was critical of bourgeois hypocritical morality, which selectively treated prostitutes with contempt. Unlike Engels and Bebel, but like Goldman (2005, 132, 134), however, she identified economic causes for prostitution rooted in women's dependence on men (Kollontai 1977), including low wages, social inequalities, and women's tendency to expect male support in exchange for sex rather than their labor (*ibid.*, 265).

Unlike male socialist leaders, Kollontai urged proactive state action since prostitution had a harmful and divisive effect on the new communist society (1977, 266) and was a factor for the increased spread of venereal disease (*ibid.*, 267). In a speech to the third all-Russian conference of heads of the Regional Women's Departments in 1921 (*ibid.*, 261), she called for legislation to eliminate prostitution—or condemn its harm at the very least—while increasing vocational training for women, solving the housing problem, and raising women's political consciousness. Yet she was under no illusion that only making fundamental changes in the political economy would create a long-term solution. After all, capitalism had catapulted many women into the labor force, but had also imposed a double working day on them—as wage worker and as mother and housekeeper (*ibid.*, 252). When the revolution made collective housekeeping and child rearing possible, women would finally be free of this double burden, be on a par with men, and participate in the communist project, where all members of society worked for a living. Marriage, Kollontai argued, would lose its materialist motivations and would be based on complete freedom, love, and trust between two equals (*ibid.*, 240). This, along with the increased material security of workingwomen, would cause the contemporary family and prostitution to disappear.

Yet interestingly, although the Russian interdepartmental commission for the campaign against prostitution during Kollontai's time considered criminalizing prostitutes, their customers, and third parties who benefited from prostitution, they eventually decided not to criminalize prostitutes or their customers. Full-time prostitutes would be convicted for work desertion, for “a prostitute is not a special case; as with other categories of deserter, she is only sent to do forced labor if she repeatedly avoids work” (Kollontai 1977, 272). A prostitute otherwise employed but engaged in part-time prostitution could not be prosecuted. Similarly, third parties were to be prosecuted for living off other people's earnings rather than their own labor.

#### Kollontai: Insights for the Work Position

Socialist feminist deliberations on prostitution law reform are instructive primarily for their theory of sex, the market, female labor, and their treatment of sex work in relation to marriage. Kollontai's theory of sex was fiercely opposed to its material objectification. For her, “a relationship is harmful and alien to the

collective only *if material bargaining between the sexes is involved, only when worldly calculations* are a substitute for mutual attraction" (1977, 271; original italics). Hence, "where passion and attraction begin, prostitution ends" (ibid., 275). Thus, in the socialist worldview, the basis for distinguishing good sex from bad sex hinged on its commodification rather than whether it took the form of transactional sex work or bourgeois marriage. This theory of sex assumes Viviana Zelizer's metaphor of "Hostile Worlds" (2000, 817), namely, that sex and the market are considered to occupy different worlds that are hostile to each other. In this sense, socialist feminists were not that different from radical feminists. Socialist feminists were, however, different from radical feminists in that they were indifferent to the forms of sexual relationships, as long as they were based on mutual attraction and love (Kollontai 1977, 272); sexual relationships could have a reproductive, erotic/passionate, or platonic basis, even being temporary or informal with no preference for marriage or family.

The condemnation of prostitution as work is also related to the early socialist feminists' understanding of the market and the conditions under which sex is commodified. Although bourgeois morality and capitalist relations had produced the bourgeois family and prostitution, for socialists, a new sexual ethic of companionate individual sex love untouched by the market or any material logic was indeed possible. Following from the Hostile Worlds worldview was the notion that it was only under extreme conditions of poverty that women transgressed the logic of the two worlds by selling sex for money. Even as Kollontai pondered over the difficulties of ascertaining whether a relationship was truly affective or not, she reformulated this causal role of poverty by mentioning instances where women resorted to prostitution, not out of starvation, but for supplementary income or favors, which Kollontai characterized as a bourgeois capitalist form of prostitution (1977, 270). This suggests that the feminist articulation of the "poverty plus" explanation for why women entered sex work was already discernable over the Western transition to industrialization. This was prescient perhaps of things to come in the communist states of Soviet Russia and China, where rehabilitation and alternate employment did not ultimately solve the "problem" of prostitution (Waters 1989).

Equally unappealing for the work position is Kollontai's theory of labor. The socialist feminist approach was largely sex worker-friendly in its opposition to their criminalization, even in the midst of the international moral panic concerning white slavery in the early twentieth century. However, this lack of sex work exceptionalism had little to do with a theory of women's sexual labor in both marriage and sex work. If anything, even at the height of the communist experiment and the founding of the first labor republic, the sex worker was a signifier for the labor deserter, the corrupter of communist ideals, and the impoverished condition of the woman, whether in marriage or in sex work. Not even considered to be a form of undesirable labor, prostitution was the very antithesis of work; the prostitute's income was considered to be "unearned." The more a bourgeois wife or sex worker detracted from real work, as defined in the

communist republic, the more likely they were to be considered labor deserters. This suggests the lack of an explicit socialist feminist theory of female labor, especially involving its intangible forms.

The most powerful insight of socialist feminist theorizing for the work position relates to its de-exceptionalization of sex work in relation to marriage. The postrevolutionary organizations mentioned in Kollontai's speech could not find a logical reason for prosecuting prostitutes and not housewives. If prostitutes were labor deserters, so were those housewives who were not involved in child care. Similarly, the people's organizations could not punish customers, for they would then have to punish most husbands. Kollontai herself acknowledged the difficulties in identifying relationships based on material calculations (1977, 272). She asked, "Can we really persuade a couple to admit whether or not there is an element of calculation in their relationship? Would such a law be workable, particularly in view of the fact that at the present time a great variety of relationships are practiced among working people and ideas on sexual morality are in constant flux? Where does prostitution end and the marriage of convenience begin?" (*ibid.*, 272).

Realizing the futility of this yardstick, policy makers were left responding to prostitution as a problem of labor desertion (with respect to prostitutes) and exploitation (with respect to third parties profiting from prostitution).<sup>2</sup> A "thicker" institutional understanding of sex work therefore translated into a "thin" policy response, which drew attention away from the exceptionalism of sex work. In other words, through a broad construction of prostitution that encompassed bourgeois marriage and was complementary to it, Kollontai draws us back into viewing prostitution along a continuum of women's economic exploitation that includes marriage. It extricates us from the narrow focus of radical feminism on prostitution as nothing but sexual violence, while ignoring the exploitation inherent in marriage, unless it amounts to servile marriage (Jeffreys 2009), problematically to be found only in the non-West or brought to the West, or where it involves domestic violence or marital rape (Barry 1979, 271).<sup>3</sup> A companionate marriage with mutually desired, consensual, and affective sex also falls outside the pall of patriarchal sexual subordination in some radical feminist accounts. Here, the eroticization of sexual domination within marriage is not considered. Ironically, however, a Muslim woman subject to a contract-based marriage law is presumed to be unable to provide meaningful consent because of seclusion, veiling, and long-term socialization to subservience (*ibid.*, 186). Nor do the complex mediations of financial and other status considerations involved in the decision to marry or stay in a marriage seem to matter to radical feminists. Kollontai's speech, on the other hand, demonstrates how a theory of sex that does not discriminate between marital and nonmarital sex can only flounder when called upon to penalize nonmarital sex. This is opposed to radical feminism, which privileges marital sex over nonmarital sex by calling for the criminalization of prostitution but not marriage. Further, at a practical level radical feminists support programs like "johns' schools," which

aim at reducing male demand for sexual services by calling on johns to return home to their wives and their companionate marriages, thus unquestioningly shoring up the privileges of marriage and its ideological superiority.

### ■ The Break from the Woman Question and the Emergence of Materialist Feminism

As materialist feminism came into its own, articulating a more robust theory of the role of both patriarchy and capitalism in the exploitation of women, it broke with writings on the woman question. The materialist feminist view of sex work in particular was marked by one of two moves—either a break with the socialist project or its rearticulation in a way that nevertheless continued to render invisible the labor of women like sex workers. The first is illustrated through Alison Jaggar’s interpretation of Marx’s characterizations of prostitution and the second through the domestic labor debates of the 1970s and 1980s, where materialist feminists recognized housework as “work,” capable of commodification but not sex work. Both moves go some way toward explaining why the work position has not been forthcoming from materialist feminists.

### ■ Breaking with Marx

Marx’s often-quoted lines on prostitution in his *Economic and Philosophic Manuscripts of 1844* have been the touchstone for materialist feminist theorizing on sex work (Van der Veen 2001; Jaggar 1983). These are: “Prostitution is only a *specific* expression of the *universal* prostitution of the worker, and since prostitution is a relationship which includes both the one who is prostituted and the one who prostitutes (and the latter is much more base), so the capitalist, etc. comes within this category” (Jaggar 1983, quoting Marx at 221; original italics).

Although Jaggar initially read this statement to conclude that it was plausible to assimilate prostitution to wage labor since prostitution involved economic coercion, the alienation of the prostitute and the commodification of her sexuality under capitalism (1991, 266, 268), the gendered nature of prostitution and the role of one’s body and sexuality rather than labor soon became problematic (ibid., 269–70). Rejecting the assimilation of prostitution to wage labor as reflective of bourgeois liberalism (ibid.), Jaggar also began to doubt if Marxism could provide an adequate theoretical account of women’s sex-specific oppression (1983, 221–23), as sex work resembled slavery. Marx’s comments to her seemed essentially moralistic, as was typical of his early work, and aimed at mobilizing the prevalent negative view of prostitution in order to condemn wage labor (ibid., 222).<sup>4</sup>

Moreover, Marx and Engels analyzed institutions like marriage only with the aim of exposing their relations of economic domination rather than attempting



a systematic analysis of women's condition evident in their contradictory and ultimately unsatisfactory theorization of bourgeois marriage as prostitution, wage labor, and slavery (Jaggar 1983, 222; Truong 1990, 35). As women faced escalating gender oppression in the form of rape, prostitution, sexual harassment, physical violence, and sexual segregation within the workforce, sex work persisted, despite women's entry into wage labor for more than a hundred years. Hence, the Engelsian narrative had failed women in reality.

Jaggar's break with Marxist analysis on the question of sex work exemplifies the tense relationship between Marxism and feminism. Materialist feminists already viewed early socialist writings on the woman question as "an unstable hodgepodge of fragments pertaining to women" (Vogel 1995, 83), yet others like MacKinnon and Barry were formulating a radical feminist break from Marxist theory, more self-consciously in the case of MacKinnon. Marxist concepts like objectification and alienation were turned on their head, as women were not viewed as authoring objectifications but being them (MacKinnon 1982, 541–42). In their anxiety to place gender at the center of Marxist analysis, however,<sup>5</sup> alternate and more complex materialist feminist readings of sex work, including within the writings of a later Marx himself on the class processes of sex work (Van der Veen 2001) and the place of prostitutes within the class system, were foreclosed.

## ■ Materialist Feminism Reconsidered: The Domestic Labor Debates

Materialist feminists' refined theories on women's labor became evident in the domestic labor debates of the 1970s, particularly between 1973 and 1979 (Mies 1998, 33) as they delineated with increasing clarity the contributions of domestic labor to the capitalist economy. More than simply benefiting the capitalist mode of production through the reproduction of labor power (Vogel 1995, 55), they argued that housewives were in fact exploited productive workers who through their reproductive labor produced *surplus value* for the capitalist mode of production (Mies 1998, 31; Fortunati 1995; Vogel 1995, 56–57), rendering their labor the very foundation of surplus value production (Mies 1998, 31). Thus, the exploitation of wage labor could not be comprehended without understanding the exploitation of non-wage labor inherent in the domestic slavery of women. Therefore, the solution was not for housewives to enter the workforce, as argued by Engels, but for their labor to be recognized. This in turn spurred a "small but aggressive movement" to demand wages for housework in the early 1970s (Vogel 1995, 57).

In 1981 Leopoldina Fortunati, an Italian feminist, expanded the theory of domestic labor in significant ways. She used, perhaps for the first time, the term "reproductive labor." She argued like feminists before her, that although reproductive labor appeared to enter simple circulation as the consumption of personal services, as the orthodox theorists believed, it was in fact implicated

in complex circulation, producing labor power as a commodity but also surplus value (1995, 102). In other words, there was a certain amount of the work time of housework or sex work contained in the male worker's labor power that was of no interest to him because it did not add to the exchange value of his labor power. It interested capital, however, because it raised the use value of his labor power (*ibid.*, 52). Fortunati further extended this theoretical framework by demonstrating that the capitalist mode of production shaped reproductive labor into assuming a dual nature by setting up the dichotomies of production/value and reproduction/non-value (*ibid.*, 9). The naturalization of reproductive labor as non-value was essential to the development of the social relations of production mediated by exchange value. This produced significant differences between productive and reproductive labor in terms of their structure, the nature of exchange involved, the labor processes involved, the points of production, the level of ideological organization required for their functionality, and the distribution of productive and reproductive labor for individual women. Despite this sophisticated exposition of the logic of extraction of reproductive labor by capitalism, as an academic movement, the domestic labor debates were short-lived; politically, it did not take off either.<sup>6</sup>

The paradox of the domestic labor debates barring the work of Fortunati, which appeared in English in 1995, and which I discuss later, is, of course, the near invisibility of sex work in its theoretical framework.<sup>7</sup> Here were materialist feminists who had powerfully critiqued Marxist theory to render visible the capitalist appropriation of women's domestic labor. They had even called for wages for housework rather than for more women to enter wage labor. Wouldn't wages for sex work then have been but a short logical step away given the already market-mediated nature of sex work? The advocacy group Wages for Housework and its leader, Selma James, did extend their rhetoric from "Wages for Housework" to "Wages for Prostitutes" (Barry 1981, 37). But this was not before being called "a covert-right front group" by Kathleen Barry, who was heckled at her session on female sexual slavery by the group at the UN-sponsored World Conference of Women in Copenhagen held in 1980 (*ibid.*, 45). Despite this intervention, however, the theoretical inadequacies of the academic domestic labor debates in relation to sex work persisted, and the campaign for wages for sex work did not make any headway.

#### The Paradox of Sex Work in the Domestic Labor Debates: Some Hypotheses

Arguably, the domestic labor debates predominated by Anglo-American feminist scholars were relatively untouched by the insights of European materialist feminists and its gendered understanding of the economic sector (Adkins and Leonard 1996, 12; Juteau and Laurin 1989, 19). Interestingly then, as I demonstrate in this chapter, it is European feminists like Fortunati and Mies and development feminists like Truong rather than Anglo-American materialist

feminists who theorized female labor expansively to include sexual labor. More substantively, the domestic labor debates lacked a theory of sex, even of the admittedly romantic kind proffered by the early socialist feminists. Sex was viewed as denaturalized and the emotions of love, sex, and affection rendered a commodity, both in form and substance (Fortunati 1995, 75). This implied a sphere of naturalized sex, but this was not elaborated on. Further, the domestic labor debates lacked clarity on what women's domestic labor included (Vogel 1995, 59), with little agreement on the concept of reproduction (*ibid.*, 62) and even less thought on whether it included women's sexual labor, except for Fortunati, who conceptualized reproductive labor to include the sexual reproduction of male labor power by both sex workers (1995, 111) and housewives (*ibid.*, 17, 71).<sup>8</sup> This inability to conceptualize female sexual labor may have arisen from feminist difficulties with theorizing services, because they uncritically used male wage labor in a capitalist mode of manufacturing to reconceptualize even housework (Himmelweit 1995, 4). As a result, while housework required time and energy and had an opportunity cost like productive work, it was unlike productive work in being inseparable from the worker. The act of childbearing (Vogel 1995, 59) and a housewife's caring for children thus could not be brought within this idea of work based on wage labor (Himmelweit 1995, 5), leading to its invisibility and to reinforcing the divide between work and nonwork (*ibid.*, 15). Predictably then, materialist feminists were less able to account for an intangible form of labor like sexual labor within marriage. Finally, to the extent that feminists were agreeable to both the objectification and commodification of domestic labor through wages for housework, the failure to extend this to sex work suggests an exceptionalist treatment of this form of reproductive labor.

One could also attribute the invisibility of sex work in the domestic labor debates to its institutional fixity, for materialist feminists, even while exposing the public/private and paid/unpaid labor binaries that rendered domestic work invisible, assumed its performance in the sole institutional setting of the family. Thus, they did not address women's labor performed outside of the family by sex workers (Truong 1990, 60), nuns (Juteau and Laurin 1989),<sup>9</sup> and single, divorced, and separated women. Feminists in the domestic labor debates also assumed a very specific notion of the family despite its dramatic transformation in the 1960s, leading to an internal critique by materialist feminists themselves against "a model of the family as an isolated static household consisting of a full-time and year-round wage-working husband, a permanently out-of-the-labor-force housewife and unspecified numbers of ageless children. Yet such a norm—and the interpersonal relations it suggests—has long been in contradiction to the simplest empirical evidence" (Vogel 1995, 27).

The housewife was almost a mythical character except during a short phase in the postwar boom years where a minority of married women approximated the ideal-typical housewife (Mies, Bennholdt-Thomsen, and von Werlhof 1988, 166). Many families were now female-headed households. The family form was

also naturalized in the domestic labor debates in terms of class and race; it did not acknowledge that with the availability of paid domestic services, only rich and poor families had housewives (Himmelweit 1995, 12; Truong 1990, 60).

Leopoldina Fortunati's *The Arcane of Reproduction*, published in Italian in 1981, was the sole exception in the domestic labor debates when it came to theorizing sex work. Fortunati does not, however, appear to have been influential for the Anglo-American scene, her book having been translated into English only in 1995. In theorizing how reproductive labor produced surplus value for capitalism, Fortunati accounted for two dominant sectors of reproduction, namely, housework and sex work, with the relationship between them being "united but juxtaposed and interdependent" (1995, 21). Housework was the fundamental and general labor process of the production and reproduction of labor power, while sex work was a specific and corollary process that sexually reproduced male labor power. Although she acknowledged that housework also involved the sexual reproduction of male labor (*ibid.*, 17), she viewed sex work mostly as making up for deficits in domestic sexuality.

Despite the similarities between sex work and productive labor, such as the sex worker's control over the terms of sale of her services like the male worker, Fortunati characterized it as non-waged reproductive labor. Sex work, after all, like housework was invisible work, and the value of the sex worker's reproductive labor was ultimately appropriated by capital when she sexually reproduced the worker. Unlike other materialist feminists, however, Fortunati called for the decriminalization of sex work rather than abolition, which led to sex workers' persecution or rehabilitation, and which effectively forced sex workers into a "waged work-relation" at the lowest possible wage (1995, 122). Instead, sex workers' struggles were part of all women's struggles against the "non-directly waged work-relation." To that extent, sex work was thoroughly de-exceptionalized.

Fortunati's theory of sex work was possible due to her nuanced and empirically informed understanding of its institutional locations. Although capitalism tried to keep female reproductive laborers in marriage and in sex work mutually exclusive, Fortunati recognized their agential overlap. Sex workers in her account did not just work in the sex industry but were simultaneously housewives and mothers who also performed sexual labor in their marriages. Thus, since the early industrial phase, "it [capital] has never hesitated to exploit women as prostitute, houseworker *and* production worker as and when it required, and often as all three simultaneously" (Fortunati 1995, 41; original italics). This persisted well into the 1980s as the boundaries between marriage and sex work were getting blurred (*ibid.*, 41, 44). More generally, however, Fortunati discussed housework extensively when compared to sex work, treating the latter as supplementary to marriage and ignoring unmarried male customers or married male customers who may not necessarily find their marital sex lacking.

Ultimately, where the domestic labor debates conceptualized reproductive labor to include sex work, the capitalist mode of production remained the

primary backdrop against which domestic labor was performed (Vogel 1995, 59). Fortunati herself viewed capitalism as determinative in privileging the heterosexual family form (1995, 19) and structuring reproductive labor (*ibid.*, 34). Patriarchy was not a social force in her scheme, while capitalism was manipulative and malleable in optimizing its appropriation of female reproductive labor. It was ultimately invincible. The anchoring of Fortunati's theory of reproductive labor in the airtight capitalist mode of production meant that it was particularly difficult to translate beyond its immediate context. It is to the international context of the domestic labor debates that I now turn.

### ■ Wages for Housework Provincialized: The Emergence of Feminist Dependency Theory

The domestic labor debates, of which the wages for housework campaign was a part, lost much of its political energy in the 1980s and was acknowledged even by insiders to be an academic movement rather than a successful political experiment (Mies 1998, 31). Feminists working in the developing world offered a critique of the very terms of the domestic labor debates, especially its ethnocentric nature. Thanh-Dam Truong argued that the theory of the sexual division of labor was in addition class-based, because the family was assumed to be a site of consumption, whereas in the developing world, the family was both a unit of consumption and of production in the conventional sense, in that women undertook market work at home (1990, 60). Spivak interrogated the primary coordinates that materialist feminists used for evaluating women's labor, namely, the home (the domestic mode of production) and the market (the capitalist mode of production) by using wet nursing as an example to suggest that women's reproductive labor could instead transition from one domestic mode to another (1987, 102).

Meanwhile, development feminists reframed the theory of reproductive labor to situate it more concretely within the international political economy. In assessing their theorization of sexual labor, I focus on the dependency feminists,<sup>10</sup> who argued that gender inequalities could not be understood "in isolation from the polarizing tendencies of the capitalist mode of production, which placed the 'peripheral' countries of the Third World in a relationship of dependency with the metropolitan centres of the First World" (Kabeer 1994, 46–47). For these dependency feminists, the most problematic aspect of the domestic labor debates was its privileging of a certain naturalized form of capitalism that characterized other areas of human labor as outside of capitalism and as "pre-capitalist," "peripheral-capitalist," "feudal," "semifeudal," or simply underdeveloped or backward. Drawing on Rosa Luxemburg, materialist feminists like Mies problematized the notion of backwardness and "uneven development" (1998, 33) and critiqued the failure of Marxism and Western materialist feminist theory to account for the conditions in the developing world, except in terms of

the linear narrative of progress (Mies, Bennholdt-Thomsen, and von Werlhof 1988, 172). As the progress of Europe was based on the subordination and exploitation of their own women, nature, and of other peoples and their lands, the law of progress was always contradictory and not evolutionary (Mies 1998, 76). Underdevelopment and overdevelopment were then “the two extreme poles of an inherently exploitative world order, divided up and yet linked by the global accumulation process or the world market” (*ibid.*, 39).

The dependency feminists I consider did not, unlike other materialist feminists, give primacy to capitalism over patriarchy. They instead asserted that capitalism was fashioned from patriarchy (Mies 1998, 71). There was, therefore, a close linkage between the international division of labor and the sexual division of labor, which were not only interdependent (*ibid.*, 110) but also shared a similar logic of the contradictory relationship between progress on one pole and retrogression on the other. In both instances, wage labor would not be productive without subsistence production. This subsistence production included, in turn, the non-wage labor of women, namely, housework but also that of slaves, contract workers, and peasants in the colonies, constituting the “perennial basis upon which ‘capitalist productive labour’ can be built up and exploited” (*ibid.*, 48). Employing the iceberg metaphor, the picture would look something like this: “Capital and waged labor form the visible economy, ‘above the water,’ counted in the GDP, where waged labor is protected by a labor contract, and where housework, work in the informal sector, work in the colonies and nature’s production form the underwater part of this economy” (*ibid.*, xi).

By conceptualizing subsistence production broadly, dependency feminists sidestepped the productive/reproductive labor dyad and the resultant binaries that plague feminist theory to date. Dependency feminists had already pointed to the sociological rarity of the housewife. Now going further, von Werlhof noted that “the proletarian and the ‘pure’ housewife [were] both rare, but nevertheless proto-typical inventions of capitalism” (Mies, Bennholdt-Thomsen, and von Werlhof 1988, 174). The contrasting conditions of work between the free wage laborer and the housewife constituted the two poles of a continuum of capitalist conditions of work and relations of production so that most work, including so-called pre- or noncapitalist work, lay somewhere in between, leaning at times more toward unfree, unpaid housework (*ibid.*, 176). Dependency feminists, however, deployed the charge of the term “housewife” in the feminist debates, using it as a shorthand term to describe varied kinds of labor that shared its structural characteristics. Understanding work in the developing world from the point of view of housework and not from the point of view of wage labor, it was little wonder that wages for housework hardly seemed revolutionary (*ibid.*).

Where dependency feminists discussed subsistence production in relation to housework, it covered “a variety of human activities ranging from pregnancy, the birth of children, to production, processing and preparation of food, clothing, making of a home, cleaning, as well as the satisfaction of emotional and

sexual needs" (Mies, Bennholdt-Thomsen, and von Werlhof 1988, 27–28, 17). Thus, subsistence production included many forms of reproductive labor missing in the domestic labor debates, including sexual labor. At the same time, dependency feminists were against the commodification of sex. Locating sex work at the convergence of the international division of labor and the capitalist sexual division of labor, Mies claimed that the "International of Pimps," consisting of international and national capital, local and Western governments, military and men (1998, 141), offered and used young women in the sex industry and in the business workplace (ibid., 117). Yet, this resistance to commodification was not unique to sex work. Dependency feminists were against the commodification of domestic labor as well, given their utopian vision that work had to be useful, necessary, and produce life in a direct and sensual relationship with nature, rather than produce things or wealth using technology. Hence, wages for housework would not be appropriate. Instead, all members of society, including men and children, had to do housework, as commodification violated human dignity (ibid., 230).

Significantly, dependency feminism exhibited a radical feminist subtext, which Kabeer calls "body politics" (1994, 51). Dependency feminists argued that capitalism benefited from subsistence production not through the appropriation of *surplus* labor, "but of the time and labour *necessary* for people's own survival or subsistence production" (ibid., 48). The wage, therefore, did not reflect the necessary reproduction costs of the laborer. Rather, force, violence, and coercive institutions were essential to maintain exploitative gender, class, and international relations, which were integrated into systems of accumulation (ibid., 169), resulting in superexploitation. Since women were neither free wage laborers nor proletarians (ibid., 145) but objects of property themselves (ibid., 170), the violence and coercion (ibid., 145) used to subordinate their will was gendered. Unlike men, a woman's labor power included her female bodily character, sensitivity, and sexuality (Mies, Bennholdt-Thomsen, and von Werlhof 1988, 120). In this, all women were interchangeable (ibid., 121), and it was this fungibility, if anything, that was a form of abstract labor under capitalism.

## ■ Dependency Feminism and the Work Position

On the face of it, dependency feminism by all accounts was against the commodification of sex and therefore resolutely opposed to the work position. Yet dependency feminism is instructive for the work position in terms of its feminist method. In particular, it provides a useful template for postcolonial materialist feminism by accommodating as well as departing from related areas of social theory, including postcolonial theory, dependency theory, and feminist theory. For instance, dependency feminism, like postcolonial theory, was critical of Western liberal modernity. Yet, unlike postcolonial theory and subaltern studies, especially since its "cultural turn," women's position in the political



economy was central to dependency feminism, as was its articulation of female agency in terms other than postmaterialist agency. However, its focus on the political economy of women's situation was far from seamless with dependency theory. Dependency theorists themselves, despite their critique of modernity, presented Europe as their vantage point; excluded noneconomic questions, such as gender and race; constructed power as total and homogenizing where the third world was a passive bystander; and contemplated agency only within the confines of the modern nation-state (Kapoor 2002). Dependency feminists, on the other hand, spoke from the perspective of the margins, integrated race and gender into their analyses, and documented female resistance to patriarchy at the individual and collective levels (Mies, Bennholdt-Thomsen, and von Werlhof 1988, 128), which was not always situated within the nation-state. Similarly, where dependency theory viewed culture as epiphenomenal, dependency feminists did not. They emphasized the cultures of violence against women, which in their view were inadequately explained by narrow economistic models.

More generally, dependency feminism, to quote Dipesh Chakrabarty "provincialized" Marxist theory by bringing it to bear upon labor in the international context. They not only problematized its implicit assumption of the Enlightenment projects of Reason and Progress, they also exposed how Marxism's reliance on what Harvey calls the historicist/diffusionist argument (2006, 72) rendered invisible the labor of vast swathes of the world's population,<sup>11</sup> including women who performed subsistence labor. As Mies observed, if the marginal base constituted the hidden base for extra profits, subsistence producers could no longer be dismissed as lumpen proletarians, as Marxists traditionally had. In other words, structural change could not be expected only from classical wage laborers (Mies, Bennholdt-Thomsen, and von Werlhof 1988, 45). Dependency feminists, however, did not stop at exposing the parochialism of Marxist theory while retaining the terms of its discourse. Hence, they did not advocate for household labor or subsistence production to be treated more like wage labor (e.g., wages for housework). Instead, they inverted the terms of Marxist discourse when they called for all labor to be understood from the "housework end" of the labor continuum. In this, they went beyond the conventional materialist feminist critique of Marxist categories of labor, which were confined to Western capitalist production. They also defined subsistence production rather broadly to encompass the marginal labor of both men and women. To that extent, they did not reiterate the dichotomies of productive and reproductive labor, which continue to remain problematic for feminist debates on women's work.<sup>12</sup> Not only did dependency feminists define subsistence production to include sexual labor, but the fact that they did not fetishize the productive/reproductive labor dyad made possible the visibility of sex work as a form of labor if not work.

More generally, while neither capitulating to the dependency theorists' ascription of a foundational status to capitalism nor being satisfied with the "mutually reinforcing dialectical relationship between capitalist class structure



and hierarchical sexual structuring" (Eisenstein 1979, 5), dependency feminism managed to be resolutely synthetic. If the wages for housework debate in MacKinnon's view was a long step beyond the "substitute contradictions approach" (1989, 63) in its ability to synthesize Marxism and feminism, then dependency feminism was all the more so. Hence, the logic of the sexual division of labor permeated the international division of labor and vice versa. With colonial capital, a specific form of the international division of labor, for example, it was not women who had a colonial status, but the colonies that had a woman's status. "In other words, the relationship between the First and the Third World corresponds to the relationship between man and woman" (Mies, Bennholdt-Thomsen, and von Werlhof 1988, 25). Similarly, the sexual division of labor exhibited characteristics of the international division of labor so that the proletarian men in the West and the developing world needed their own internal colonies of housewives (Mies 1998, 143).

The sophisticated, synthetic mode of dependency feminism had the result of producing sharp "convergentist" and "divergentist" insights. Janet Halley uses these terms in relation to hybrid feminist projects, like antiracist and postcolonial feminism, in the context of discussing sex, gender, sexuality, and sexual orientation (2006, 24). In convergentist hybrid feminist projects, she argues that the various forms of subordination act together, whereas in a divergentist project, feminism is prepared to see political splits, especially that the various forms of subordination may conflict with each other (*ibid.*, 26). Deploying this framework, a divergentist strain does appear in dependency feminism, although it is minor compared to its convergentist tendency. The first aspect of this divergentism is that given the expansive scope of the notion of subsistence production, not all dependency feminists took for granted the category of the woman as foundational for feminist theory. Mies, for instance, acknowledged that men were the agents of capital, yet their roles in the international division of labor had to be delineated in terms of their class, race, and locations in the division of labor. Hence arose the possibility that rich and poor white women in the first world, as well as rich black and brown men and women in the colonies, benefited from the exploitation of brown and black male and female workers in the third world (Mies 1998, 142–43). Thus, dependency feminists contemplated the differential stakes that men and women from the first world and third world, and from different classes, may have in the appropriation of labor.

The convergentist mode, however, is predominant in dependency feminism, exemplified by its treatment of sex work. Here, the international division of labor and the capitalist sexual division of labor constituted an *integrated system of exploitation* of the New International Order (Mies 1998, 143) to form the basis of "sexploitation" (*ibid.*, 142). Thus, the concept of sexploitation bore within it not just the materialist feminist critique of capitalism and patriarchy but also a specifically radical feminist critique of patriarchy, producing in effect a radical materialist feminism. Concomitant with this comprehensive form of structuralism, Mies, like Marxist humanists writing on the woman question,

moralistically held up sex work as the epitome of all that was bad about modern labor processes and the new international division of labor. So while her discussion of sex work was initially based on a brief but concrete political economy of Southeast Asian sex industries, by the end of her interlude, Mies was referring to prostitution metaphorically as well, as being one of the two options—other than housework—increasingly available to women (ibid., 143).

### ■ Dependency Feminism Revisited: The Emergence of a Developmentalist Account of Sex Work

Following from dependency feminism, a thoroughly developmentalist account of sex work soon emerged. Thanh-Dam Truong's 1990 study of Thailand's sex industry was pathbreaking in this respect. On the face of it, her work largely continued in the intellectual trajectory of dependency feminism. Yet far from the broad-brush attempt of the German dependency feminists to theorize sex work within the international division of labor, Truong instead examined the emergence of the contemporary Thai sex industry with the entry of leisure into the international division of labor. She further demonstrated how the interplay between discourse, culture, and economy integrated developing countries and their female populations into the *total structure* of production of the leisure industry (Truong 1990, 197; *italics mine*), resulting in hierarchies between the industrialized world and developing countries in the production and consumption of these services. Conglomerates formed through the integration of the interests of air carriers, tour operators, and hotel companies controlled information and knowledge about developing countries, while peripheral countries themselves passively provided social infrastructure and facilities (ibid., 198). The notion of the core and periphery was thus central to Truong's work. More specifically, while the U.S. geopolitical interests in Southeast Asia initially fostered the development of tourism there, the subsequent decline of earnings from the U.S. military led to the incorporation of tourism into a wider strategy of national development, internationalizing the R & R market in the process (ibid., 166–67). Local power groups like the military and commercial community facilitated this by drawing on the existing ideological constructs of women's role in society and the poor legal protections available to Thai sex workers. In this *applied* version of dependency feminism, capitalism plays a strong causal role in leading to the formation of the Thai sex industry.

In line with a Foucauldian skepticism of structuralist theories of power, however, Truong unequivocally rejected the radical feminist analysis of sex work for its neglect of historical and social variations of gender construction and transformations in the productive base (Truong 1990, 43). Calling for a disaggregation of the different relations and patterns of employment in sex work from notions such as patriarchy (ibid., 48), Truong refined the extant feminist theory of reproductive labor. Reproductive labor already included sexual labor

to the extent that the sexual functions of the body were utilized as an instrument (*ibid.*, 197). By disaggregating, like Fortunati, the different kinds of services that comprised reproductive labor, including sexual services and social services of maintenance (*ibid.*, 66), Truong located more precisely the institutional settings in which such labor was performed. By not conflating household relations and relations that organized reproductive work, the reproductive labor of women, like sex workers who operated outside the bounds of the family, would still be visible, unlike in the domestic labor debates. Conversely, since the relations that structured housework and sex work and the positions that women occupied within both varied considerably, wages for housework and sex work were unlikely to have similar consequences. It was not possible to equate a housewife with a prostitute on the basis of female poverty and wagelessness. After all, not all prostitutes were poor, and not all poor housewives entered sex work (*ibid.*, 53). Like Fortunati, Truong also pointed to the cognitive and institutional structures governing sexuality, which rendered sex work as a form of labor under wage relations invisible. This invisibility in turn produced a range of ideological and material benefits, including an intensification of accumulation while rendering sex workers more vulnerable in relation to their employers. Pointing to the heterogeneity of the sex industry, Truong delineated the subject positions of sex workers within the sex industry, challenging any assumption that they shared common social origins, working conditions, or the same long-term perspective (*ibid.*, 182). Drawing on Foucauldian notions of power and discourse analysis instead, she demarcated the multiplicity of meanings and social relations of sex work based on its organization, the institutional settings in which it took place (or “sites of production,” as she called them), the nature of the sexual services offered, the sexual identity this entailed, and the differential regulation by the law that this attracted. In all these respects, the developmentalist account of sex work refines the parameters of the work position.

Yet note its theory of capitalism. On the one hand, Truong was far from economicist about the role of capitalism in the Thai sex industry and loathed using poverty as a basis to explain sex work (1990, 190). Instead, she extended the rubric of dependency feminism by highlighting the role of the Thai government, which was not a passive victim in supplying female labor, which was in turn appropriated by the machine of global capitalism in the new international division of labor. While Mies also highlighted the role of national governments within what she called the “International of Pimps,” she assigned a far more significant role to multinational enterprises and hotel chains. Truong, on the other hand, focused as much on the development strategy of the Thai government and the role of Thai culture in permitting the growth of sex tourism. Subsequent studies of the Thai sex industry have confirmed her insights (Bishop and Robinson 1998, 98–99). The role of domestic capital is instructive for a postcolonial materialist feminist understanding of sex markets.

Despite displaying less commodification anxiety in relation to sex work than, say, the early socialist feminists and dependency feminists, Truong agreed

with them that capitalism determined markets in female reproductive labor. Like Fortunati, she demonstrated how capitalism interacted with culture and ideology to extract surplus values from sex work. Further, although commercial sex work predated capitalism, where capitalism had once disintegrated kinship relations, so as to separately commercialize female reproductive labor, it now reintegrated them in the form of the sex package tour (Truong 1990, 199) through its penetration of the leisure and entertainment sectors facilitated by policy and investment decisions (*ibid.*, 189). Thus, we find an account of the logic of capitalism in the international division of labor. Possibly as a result, despite a contingent theory of the organization of reproductive labor, Truong, unlike Fortunati, was reluctant to advocate its recognition as legitimate work. This would, after all, amount to glorifying a plurality of sexual choices, while ignoring, she claimed, the underlying sexual domination and the traffic in women and children required in order to sustain this form of labor. As she observed, to stop judging sex work was one thing, but to cease imposing ethical boundaries on the use of sexual labor was quite another (*ibid.*, 202). Truong thus ultimately capitulated to the reified power of capitalism in her nonrecognition of sex work as legitimate work. The continued emphasis on the powers of capitalism suggests a major tension in Truong's work, influenced as it is by dependency feminism, as well as a more contingent political economy approach and a Foucauldian understanding of power.

### ■ Essentializing Difference: Dependency Feminism Resituated

Despite Truong's nuanced application of dependency feminism to a concrete sex industry, her work has provided the impetus for an essentialist third world perspective on sex work. There are undoubtedly good reasons for articulating a third world feminist/sex worker perspective given the traditionally unequal spaces of international civil society available to feminists from the first world and third world. However, for the strand of feminism that I identify here, third world difference is premised on the distinct nature of the third world economy, which is often no more than a stand-in for third world poverty. After all, according to one Indian feminist, it is poverty in combination with racism, religion, and patriarchy that causes women's entry into sex work in the third world (D'Cunha 1997, 251). Consequently, even where poor third world women choose sex work because of their poverty, their choice is understood to be no choice at all. In fact, third world radical feminists often find the political economy of third world sex industries to be their point of departure from Western radical feminism. To illustrate, Jean D'Cunha, an Indian radical feminist whose sociolegal study of Mumbai's sex industry in 1991 is a pioneering work in the field, had by 1998 explicitly acknowledged the inadequacy of the (Western) radical feminist framework for understanding sex work in the third world, necessitating a feminist perspective from the South (1998, 230).<sup>13</sup>

Poverty is essentialized in the cultural sense as well, so that third world poverty was merely economic poverty, whereas poverty in the developed world equaled a poverty of spirit, as embodied in consumerism and the commodification of human relations and women's bodies (D'Cunha 1997, 250). D'Cunha thus denounced women who entered sex work not out of economic poverty, but greed and consumerism (*ibid.*). Clearly, then, sex workers who were not victims of economic poverty were in a sense undeserving of protection. Further, she claimed that the first world was spreading this culture of commodification through male demand for third world sex workers, which had led to the formation of international criminal networks (*ibid.*, 250–51). A southern perspective is thus tethered in her account to some general notion of dependency, but essentially rests on a notion of economic difference that quickly slides into cultural essentialism. Hence, as Kapur notes, "Asian women are set up in opposition to Western women: the Asian woman is cast as chaste and vulnerable to exploitation, in contrast to the promiscuous Western woman who is ruled by the (im)morality of the market" (2005b, 124). Not surprisingly, it is this very assumption of poverty and lack of choice that animates the international violence against women movement, whose interventions in relation to third world women are ultimately colonialist in nature (*ibid.*, 115). Where poverty becomes the primary lens for examining the sex industry, rather than the concrete realities of political economies of sex industries, the specificities of the exploitation in sex work in the developing world and in the West are lost. Thus, the nuances of dependency feminism could easily be employed to reiterate a simplistic North-South divide premised on third world poverty where third world sex workers are viewed as sex slaves. Also, this means that despite the rejection of the radical feminist analytic for not considering materialist questions, the radical feminist tune could be sung just as easily on the register of the economic. In other words, where the radical feminist script would characterize sex work as total violence to justify its abolition, the materialist feminist version presents sex work in terms of nothing but total alienation for the sex worker and her customer (Bishop and Robinson 1998, 247–48).

### ■ Sex Work in Late Capitalist Economies

As dependency feminists interrogated the role of capitalism in the international division of labor from the point of view of the periphery, the rapidly shifting contours of Western capitalism were being tracked by feminists at the core. In the American context, materialist feminism occupied a peripheral place in feminist theory, presenting little hope for a well-developed materialist feminist theory of sexuality, much less of sex work.<sup>14</sup> If anything, over the past decade or so, in the aftermath of the post-structuralist turn in many disciplines and the emergence of queer theory, materialist analyses of sexuality have largely taken the form of cultural materialism. Viewing cultural materialists as participating

in the logic of neoliberalism by restricting themselves to engaging with the materiality of norms (Hennessy 2000, 80; Truong 1990, 5), Hennessy instead calls for a study of sexuality in terms of its relations of social production and for unearthing “the class character of capitalism’s deep structures” (2000, 222). The materialist feminists I consider in this section engage precisely in this effort when analyzing sex markets without necessarily donning the materialist feminist mantle. Remember, however, that this effort could well be motivated by their disenchantment with the stifling structuralism of radical feminism, whose vocabulary has monopolized the discourse on sex work rather than a critique of post-structuralism or cultural materialism. To illustrate, Elizabeth Bernstein claims in her study of postindustrial sexual commerce to intervene in the feminist sex work debates by complicating the axes of domination and subordination, both economically and sexually, to show that sex workers’ oppression may be less than what they experience outside of sex work (2007a, 108).

These materialist feminists understand late capitalism or the postindustrial economy as signifying the end of an industrially based economy (Bernstein 2007a, 18) so that “profit is generated less from the primary production of material goods, and far more from the production of services—a move from an economy geared toward production to a knowledge and service economy” (Singer 1993, 35). This produces a corresponding shift for postindustrial feminists in the political economy of the sex industry. In offering a concrete description of the effects of late capitalism on the micro-political economy of sex markets themselves, postindustrial feminists present a more extensive account of the relationship between capitalism and sex work when compared to prior materialist feminists.

### ■ Postindustrial Sex Markets and the Logic of Late Capitalism

Under late capitalist conditions, the sale of sexual services for money far exceeds merely transactional sex work warranting the term “sexual commerce.” Sexual commerce includes live sex shows, pornographic texts, videos and images, fetish clubs, clubs with lap and wall dancing, escort agencies, massage parlors, telephone and cybersex, and sex tourism in developing countries (Bernstein 2007a, 4). Radical feminists have similarly described markets for sexual commerce although not explicitly in terms of the postindustrial economy (Jeffreys 2009; Barry 1995), as have other social scientists (Sanders 2010; Coulmont and Hubbard 2010). Paramount to the operation by sexual workers outside what Singer terms “the sphere of primary production” or genital contact (Singer 1993, 45) is the role of technology. This makes possible the proliferation of sexual workers, like sexual counselors, new forms of erotica, new sexual services like party lines, mass-marketing methods, market segmenting for hitherto ignored populations, and the deskilling of labor due to its division into relatively anonymous, interchangeable functions (*ibid.*, 45–48). Technology is

used by individual sex workers to access specialized audiences and clientele when displaced from street-based sex work (Bernstein 2007a, 93), as well as by companies forming websites for self-employed sex workers (*ibid.*, 70). Here, technology further reduces the costs for the industry and enables capitalist profit maximization, given that it is not capital intensive and requires minimal worker training to begin with.

Despite the narrative of limitless expansion and normalization that this description of postindustrial sexual commerce implies, late capitalism displays an oppositional profit logic “in terms of which sexual labor, reproductive and erotic, must also remain the only form of labor which is unpaid and uncompensated” (Singer 1993, 36). In other words, sexual commodities would not have as much value if it were not for a sphere of uncommodified sexuality.<sup>15</sup> This oppositional logic produced both economic and ideological benefits. Hence, “by maintaining sex for money as a distinct segment or sexual subset, the largely ‘free market’ in sexuality, which would include all forms of uncompensated sexual exchanges, is hegemonized and naturalized in a way that sustains dominant class and gender interests” (*ibid.*, 49). Yet, sex work could not be recoded as resistance to this logic, for it in fact fetishized the hegemony of unpaid sexual labor, which maintained reproduction as alienated and undervalued, as well as a system of heterosexist and male domination (*ibid.*, 44). This double logic of late capitalism also emerges in the more specific context of regulation. In her study of sex work in the three postindustrial settings of San Francisco, the Netherlands, and Sweden, Bernstein argues that where commercial sexual consumption was being normalized through the mainstreaming of pornography, the normalization of sexual products for women consumers, and the popularity of the sex worker memoir as literary genre (2007a, 108; Sanders 2010), it was also being simultaneously problematized through johns’ schools, where feminists and social activists pushed to retain sexual intimacy (Bernstein 2007a, 139) as the model for relationships. Moreover, the social stigma of sex work and its criminalization persisted, thereby rendering workers vulnerable while increasing profit margins (Sanders 2010; Singer 1993, 39).

### ■ The Political Economy of Sexual Commerce under Late Capitalism

To situate the sweeping changes in sexual commerce ushered in by late capitalism, postindustrial feminists like Bernstein propose three historical paradigms, namely, “early-modern sexual barter,” “modern-industrial prostitution,” and “post-industrial sexual commerce” to highlight the uniqueness of sex work under late capitalism (2007a, 170, 173). Across these three paradigms of sexual commerce, the nature of the commodity for sale and purchase, its location, its organization, and its regulation by the state vary.<sup>16</sup> However, Bernstein claims that there is no teleological relationship between these paradigms of sexual commerce and that, indeed, any given sex industry can display all three



paradigmatic forms of sex work. What then distinguishes a sex industry are fundamental shifts in the macro-political economy accompanied by changes in the notions of work, family, and the sexual ethic. Bernstein uses her ethnography of sex work in San Francisco to illustrate how in cities throughout North America and Western Europe the defining features of modern street-based sex work as an ideological antithesis to private sex and love have become increasingly muted (ibid., 7). In San Francisco in particular, technology as the driving force of its political economy had produced a highly stratified occupational sector with a large percentage of junk jobs. This gendered phenomenon produced a “digital cleavage” (ibid., 80) that led many women to take to sex work over the so-called low-paying junk jobs. The proliferation of service work and the new global information economy was accompanied by a change in the family form with the rise of postmodern families peopled by isolable individuals. This, in turn, produced a transformation in the erotic sphere, resulting in a recreational sexual ethic (ibid., 6) in place of the procreative and companionate models of sexuality. The recreational sexual ethic derived its primary meaning from the depth of physical sensation and from emotionally bounded erotic exchange or “bounded authenticity” (ibid.). Unlike relational sexuality, recreational sexuality bore no antagonism to the sphere of public commerce and was available for sale and purchase as readily as any other form of commercially packaged leisure activity (ibid., 7).

Meanwhile, San Francisco witnessed the demise of modern prostitution or streetwalking in the Tenderloin district of downtown San Francisco and inner-city street and massage parlor prostitution and the flourishing of new, high-tech, and decentered forms of sexual commerce (Bernstein 2007a, 31), characterized by spatial, social, and emotional privatization (ibid., 69). Yet the transformation brought about by the city’s postindustrial economy also literally permeated every aspect of the sex work transaction, of which Bernstein paints a rather detailed picture when compared to other commentators on postindustrial sexual commerce. *Sexual services* in postindustrial settings were “diffuse and expansive rather than delimited and expedient” (ibid., 102), including not just sexual intercourse resulting in sexual release but back rubs, talking, and therapy. Hence, the sex work transaction was measured in terms of time rather than specific acts, and involved emotions, eroticism, and deep acting (ibid., 104). Yet the sex work transaction was effectively a market exchange with an emotional boundary between worker and customer, which was temporarily subordinated to the customer’s desire for authentic interpersonal connection (ibid., 103), so that freebies or unpaid sexual transactions put off customers.

Unlike modern prostitutes, sex workers in postindustrial conditions perceived less *harm* in sex work, the occupational *statuses* of the sex worker and customer were less hierarchical than in modern prostitution (Bernstein 2007a, 1, 77, 81–83), and sex workers were more professionalized, including in their management of legal risk (ibid., 91, 92, 95–96). They also expressed a sex worker *identity*, which stemmed in part from radical, queer, activist politics in that



they were consciously nonmonogamous, bisexual, and experimental (ibid., 106), occasionally even buying sex. Bernstein suggests that sex workers' identity was also expressed in terms of their normalization as service workers and caregiving professionals (ibid., 78), not unlike the new petit bourgeoisie, which regarded fun, sexiness, pleasure, and freedom as ethical ideals worth pursuing. In terms of the *organization of postindustrial sex work* itself, sex workers viewed street and brothel-based sex work as risky and beneath them, while also resisting work locations where there was a purely instrumentalist relationship to labor (ibid., 87). Late capitalism also influenced *customers' view* of sex work. Although Bernstein's interviews with customers suggested varied explanations for why they bought sexual services, she argues that compensatory models relating to lost patriarchal privileges, the ravages of the postindustrial economy, and unsatisfactory marital sex were inadequate. Instead, customers actually preferred commercial sex and bounded intimacy (ibid., 127), which was in turn enabled by consumer capitalism and their democratized access to sex markets (ibid., 123).

### ■ Postindustrial Feminists and the Work Position

Postindustrial feminists elaborated on how late capitalism ushered in a fundamental transformation of sex industries and actors' perception of the sex work transaction at the most minute level. This is not surprising given that some analysis of capitalism has always been the signature line of materialist feminist interventions on sex work, particularly in terms of its *causal role* in directly or indirectly pushing women into sex work. Capitalism took the form of poverty in Kollontai, nationalist development strategies of sex tourism in Mies, and San Francisco's digital cleavage in Bernstein. Be that as it may, the explanation for *how* capitalism operates and benefits from sex work varied significantly and warrants closer attention. In dependency feminism, Capital in the form of multinational capital maintained its hegemony through collaborations with national capital, bolstered in turn by domestic political support from the elite. Processes of capital accumulation within the sex industry then pointed only in one direction—toward the coffers of multinational capital. To illustrate, the Thai development strategy was predictably based on fostering R & R. After all, Robert McNamara visited Thailand in 1967 as secretary of defense, and in 1971 as head of the World Bank to promote tourism as a development strategy (Bishop and Robinson 1998, 98). The specificity of the causal connection here is striking. In contrast, both Singer and Bernstein pointed to the more dispersed beneficiaries of sexual commerce. Small businesses like video stores, holiday chains, long-distance phone companies, and cable companies (Bernstein 2007a, 17n10) benefited from pornography. In this sense, the materiality of global capital did not merely reside in the balance sheets of corporations. Capitalism was omnipresent, but its workings were diffuse and therefore more

insidious. Capitalism thus functioned as a complex, structured totality (ibid., 9). In acknowledging its power and maybe consequently, postindustrial feminists, unlike other materialist feminists, were agnostic to the commodification of sex. Rather than take commodification as signaling reduced intimacy, they stressed the need to examine how “spheres of public and private, intimacy and commerce, have *interpenetrated* one another and thereby been *mutually transformed*, making the postindustrial consumer marketplace one potential arena for securing authentic, yet bounded, forms of interpersonal connection” (ibid., 21; italics mine). This is a significantly revised notion of commodification.

However, was the so-called logic of late capitalism unique to postindustrialism? After all, the idea that capitalism benefited both materially and ideologically from the differential regulation of marriage and sex work was a theme that animated both the domestic labor debates (Fortunati) and dependency feminism (Truong). Feminists elsewhere have identified this as a feature of patriarchy, particularly in the earlier phases of the development of the family. Sangari, writing on reforms in female domestic labor markets in nineteenth and early twentieth-century India, noted that patriarchy appropriated female labor through its material organization of the household and the market (1999, 300), assisted by “the consensual construction of binary oppositions between . . . good wives and ‘others’ such as widows or prostitutes” (ibid.). Similarly, Bernstein notes that in a postindustrial economy, the increased male demand for sexual services in the form of bounded authenticity is countered by a paradoxical normative push for a return to sex as romance and the tackling of male sexual addiction (Bernstein 2007a, 115). Yet one might ask how different the contemporary moment was from, say, at the turn of the century when the sweeping socioeconomic changes unleashed by industrialization led to the widespread commodification of sex but also the abolitionist movement’s call for reinstating companionate models of intimacy between men and women. In other words, the impulse to rein back on the expansion of the economic into the private realms of people’s lives may not necessarily be a function of postindustrialism.

As at other moments of materialist feminist theorizing on sex work, postindustrial feminism also lends itself to fruitful overlaps with radical feminism. This explains Linda Singer’s opposition to the legalization of sex work, which rests on her exceptionalist treatment of sex work when compared to marriage and the perceived lack of sex worker choice. Singer, like Truong and Fortunati, plotted the social relations of marriage and sex work on a continuum, yet she was loath to imagine that the conditions of sex workers could be improved through legalization, because, after all, legality and selective exploitation were compatible, as evidenced by both marriage and the capitalist definition of free employment (1993, 56). While decriminalization or legalization can hardly be certain to eliminate exploitation in sex work, surely they shift the day-to-day bargaining power of sex workers with the possibility of a different configuration of the sex industry. Singer’s refusal to treat sex work on a par with marriage,

however weak the promises of legality, suggests an exceptionalist treatment of sex work.

Singer was also unconvinced that a sex worker was more empowered than a wife in negotiating the substantive and temporal aspects of each sexual act rather than submitting to a lifetime of sex on demand without pay (1993, 54). She argued, citing Barry, that an empowered sex worker implied that she had a choice when in fact she had none, attributing even to the self-employed sex worker false consciousness when she expressed autonomy for getting paid to do what other women gave away for free. Sex worker agency was thus a suspect category for Singer given its propensity for self-regulation (*ibid.*, 59). Singer's opposition to legalizing sex work also stemmed from her prostration before the inexorable surge of capital.<sup>17</sup> Late capitalism, after all, could transform even institutions and practices like sex work or wet nursing, which had existed from time immemorial. In a sense, legalizing sex work would amount to a capitulation to the dual logic of late capitalism, which she had so forcefully delineated. Thus, even when not drawing on radical feminism, Singer was performing a structuralist analysis of sex work on an economic register, so there was no possibility for resistance to capitalism, and sex worker agency could be recoded only in the language of false consciousness.

Yet not all postindustrial feminists examined late capitalism merely as a force from above, preferring instead a more contextual and contingent explanation for its effect on the day-to-day practices of sex markets. Bernstein, for instance, undergirded normative discussions of sexual labor in a contextualized understanding of commercial sexual transactions, intimacy, and sexuality (2007a, 187). In that sense, acknowledging the fluidity and market-based nature of sex work, the central argument of postindustrial feminists was to assert and map the "newness" of markets in sexual commerce under late capitalism, warranting a new paradigm altogether. This raises an interesting predicament. On the one hand, in positing the coexistence of the three paradigms of sexual commerce within the postindustrial economic space of San Francisco, Bernstein recognized that the impact of late capitalism was far from hegemonic. Yet what really rendered the distinctions paradigmatic were the transformations in the broader spheres of the economy, culture, and sexuality (*ibid.*, 172). Thus, whatever the interplay between the three paradigms within a given sex industry, it was still possible to discern an early modern, modern, and postindustrial macro-political economy characterized by particular forms of work (domestic production, wage labor, and service work), kinship relations (kin networks, nuclear and recombinant families), and sexual ethics (procreative, companionate, and bounded authenticity), respectively (*ibid.*, 173). Thus, the argument of "newness" even when not prescribing transition was inextricably tied into a transition narrative, if not for sex markets, then certainly for the stage of economic development of the nation or region at hand. We have already encountered a more definitive version of such narratives in radical feminism outlined in chapter 2. I will present a postcolonial critique of such transition narratives

in addition to problematizing the internal coherence of the paradigms of sexual commerce themselves in chapter 7, having delineated the political economies of two archetypical Indian sex markets in the intervening chapters. For the time being, I will simply recall the resistance of dependency feminism to Marxist transition narratives that sought to explain the backwardness of third world economies.

### ■ Competing Structuralisms

In this chapter, I have provided an overview of materialist feminist theorizing on sex work in order to amplify relevant themes for the work position, irrespective of whether materialist feminists in fact advocated that sex work be treated as legitimate work or not. As I suggested earlier, the materialist feminist method as it has evolved over the years has the potential to offer insights for a work position that is animated by structuralist concerns by offering an extensive vocabulary for conceptualizing a complex economic phenomenon like sex work. A materialist feminist approach becomes particularly critical as radical feminist theorists of sex work have turned to theorize the materiality of sex industries. Meanwhile, the postindustrial transformation of sex work has spurred feminists to locate its understanding in an explicitly *cultural* study with a desire to “leave behind” the conventional terms of the feminist discourse on sex work as obfuscating and unappreciative of the nuances of contemporary sex work (Agustín 2007b). This begs the question whether this very turn to the cultural is constitutive of neoliberal ideology (Hennessy 2000). Set against this feminist landscape, where radical feminism continues to exert considerable influence, I outline in this section the advantages of a materialist feminist lens on sex work.

Feminists theorizing sex work, irrespective of whether they are abolitionist or sex work advocates, hardly offer an elaborate, normative theory of sex.<sup>18</sup> Materialist feminists were no different. Some possible elements could be gleaned from Kollontai’s writings, where she deprivileged bourgeois marriage by advocating a variety of sexual relationships irrespective of the form they took. At the same time, the fluidity of the sexual relationship was bounded in an important respect in that it required mutual trust and attraction without a trace of economic bargaining, a condition that Kollontai herself pointed out was practically impossible to ascertain. But post-Foucault, the notion that sex can be separated from any kind of power is inconceivable. As socialist feminism found its voice, feminists were quick to dismiss this classical socialist feminist position as an outdated Victorian notion of romantic love (Jaggar 1991, 266) without necessarily yielding a more sophisticated theory of sex and sexuality. Instead, the domestic labor debates continued to be silent on the question of sex, and where Fortunati mentioned it in the context of reproductive labor, she viewed the emotions of love, sex, and affection as commodities (Fortunati 1995, 75), without suggesting if this was inevitable or not. Dependency feminists like

Mies, Bennholdt-Thomsen, and von Werlhof theorized sex in terms of sexual subordination in the family (1988, 175) and at the workplace (ibid., 118). While postindustrial feminists were less absolutist in their description of women's sexuality, their elaboration of its complex discursive reconstitution under late capitalism hardly suggests redemptive possibilities. Thus, early materialist feminists sought to carve out a sphere of sexual relations that was untouched by power, but soon after materialist feminists presented it as always inextricably shot through with relations of power. In that sense, materialist feminism was very much like radical feminism, although, as I suggest in chapter 2, a strong redemptive strain persists within radical feminism.

Closely related to a theory of sex is a theory of its commodification. Corresponding to the two broad materialist feminist positions on sex as either needing to be saved from the onslaught of the market or as being beyond redemption given the market's overwhelming power, the commodification anxieties of materialist feminists vary accordingly. Socialists writing on the woman question were against the commodification of sex because it had to be free of any economic bargaining. Yet even as more women entered the job market and states provided social safety nets, women increasingly resorted to sex work, and sex did not become free of bargaining.<sup>19</sup> This drove feminists like Jaggar to depart with economic explanations and seek an alternate theory in radical feminism, which understood subordination in terms of women's sexuality. A more robust critique of patriarchy for her meant that the exchange of sex for money could only be explained as female slavery at worst and a parallel undesirable shadow of wage labor at best. The commodification of sex was clearly not addressed in the domestic labor debates. Beginning with Fortunati's *Arcane of Reproduction*, we begin to discern an agnostic feminist position toward its commodification. Viewing the commodification of sex as inevitable, materialist feminists were instead beginning to investigate the patterns of commodification and chains of value that it produced for capitalism. There was a return, however, to the anticommodification stance of the classical socialist feminists in the dependency feminism of German feminists like Mies. Postindustrial feminists have now reverted to an agnostic position to commodification, which, when coupled with an empirical focus, destabilizes our very assumptions about the two spheres by pointing to their elaborate interpenetration and mutual discursive reconstitution. This is true even for postindustrial feminists like Singer who opposed the legalization of sex work but not because of its mere commodification. We thus find commodification anxiety tapering off among materialist feminists, unlike in the case of radical feminists, where commodification per se continues to be the primary harm of sex work and the basis of a theory of sexual exploitation.

When it came to a theory of labor, the one issue that materialist feminists agreed on almost unanimously was that women should be recognized, even compensated, for their reproductive labor. They were, however, for the most part against the commodification of sexual labor. Socialist feminists like Goldman and Kollontai privileged productive labor, and despite their willingness to

collectivize domestic labor, sex work for them was the very antithesis of work. Their primary goal was to proactively ameliorate the conditions of female labor in the market so that women, along with men, could aspire toward a new working-class identity and work ethic rather than wait for the revolution to improve the condition of women. In the domestic labor debates, on the contrary, materialist feminists forced an epistemic break within Marxist theory to render domestic labor visible. This meant a far more fraught relationship with productive labor and an invitation to the market to enter the so-called private domain (Marella 2008, 79) through wages for housework. Meanwhile, Fortunati, writing at the tail end of the domestic labor debates, refined this materialist feminist vocabulary by expanding the notion of reproductive labor, which included not only domestic labor, in turn encompassing sexual labor, but for the first time also included sex work, which already sat uneasily in the domestic labor debates given its mediation by the market and its already “productive” character.

Dependency feminists continued in this trajectory of rendering visible hitherto invisible labor, particularly women’s reproductive labor, including sexual labor. Yet the notion of subsistence production went well beyond female labor, sidestepping the more familiar feminist dilemma of whether to engage with the market to enhance women’s work outside the home or to have the state validate home work.<sup>20</sup> Instead, wage labor itself was sought to be understood through the lens of housework, so that sex work shared structural similarities with several other labor forms performed by men and women in the formal and informal economies, all metaphorically referred to as housework. Yet, German dependency feminists advocated for dignified work, which was against the commodification of any reproductive labor (Mies 1998, 230). Later dependency feminists and postindustrial feminists continued to refine the feminist theory of reproductive labor by acknowledging the economic value generated by women’s sexual labor for themselves as well as for the national and international economies. Further, they mapped the specific social relations of the female sexual labor performed in sex markets. Irrespective of whether materialist feminists recognized sex work as a legitimate form of work or not, it is in their sustained elaboration of markets in female reproductive labor that we find prospects for an agenda of economic justice for sex workers. Radical feminists in contrast, to the extent they theorize sex work only in terms of violence, have no access to a similar vocabulary of labor that allows for a differentiated analysis of sex work.

Materialist feminism’s most valuable insights for the work position lie in its sustained focus on the continuum of women’s economic condition, whether in marriage, sex work, or the labor markets, and the interconnected nature of women’s labor in these varied institutional settings. For Kollontai, bourgeois marriage was by definition prostitution, but she also acknowledged the sale of sex for money on a transactional basis in the sex industry, as well as in productive labor markets where women workers sold sex for favors, including promotions. More important, the connections between these institutional settings are

vivid in Kollontai's writings. For instance, she argued that once we improved labor market conditions such that women workers got paid as much as male workers, and the double working day for women was reduced through the collectivization of housework, then sex work would disappear. This form of specific institutional "tinkering" does not exist in contemporary sex work debates except in the form of a vague and naive recognition that since women enter sex work out of poverty, labor markets for women need to improve. The keen attention to the varying institutional coordinates of female labor was once again eclipsed in the domestic labor debates, only to resurface in Fortunati's *Arcane of Reproduction*, where she repeatedly notes the spectacular agential overlap of women's reproductive labor in several institutional settings. Sex workers were, then, not just women condemned to sex work in brothels; instead, they were female wage workers who were also housewives and mothers, and who sold sex to augment their salaries.

The emphasis on the continuum persisted in dependency feminism and in postindustrial feminism. Truong not only reiterated how the oppositional relationship between sex work and marriage reinforced processes of accumulation, but also how the same legal reform was likely to impact women in different positions within these institutions quite differently. In postindustrial feminism, a similar oppositional logic between marriage and sex work was attributed to late capitalist conditions in the West. Keeping this institutional continuum at the center of any theoretical attempt, however, is the only way, first, to avoid the exceptional treatment of sex workers who perform in the market (the venue for productive work), reproductive labor that is traditionally confined to the private realm, and second, to attempt more sophisticated understandings of sex work itself. It is not for nothing that sex workers in Kolkata until recently opened bank accounts listing their occupation as housewife or domestic worker (*Hindustan Times* 2004b). The emphasis on the relationship between marriage and sex work within feminist theory is, of course, not new. Radical feminists like Pateman theorized the sexual contract as mediated through marriage, sex work, and employment. Still, the predominant mode of engagement by radical feminists with marriage in relation to sex work presumes the existence of a "bad marriage" rather than the apparently more benign forms of companionate marriage. This is not surprising given the radical feminist desire to eliminate violence against women whether in sex work or in marriage. To the extent that materialist feminists retain a critical lens on marriage in general and point to the emerging fluidity of women straddling both sex work and marriage, they treat sex work in a far less exceptionalist way.

This brings us to the question of how materialist feminists theorized capitalism. For radical feminists, the economic analysis of sex work was interested in economic exploitation, really, poverty, which explained women's entry into sex work and men's entry into pimping (Barry 1979, 9). Materialist feminists, however, had far more complex causal accounts for the role of capitalism in fostering sex work. Neither were they economistic in any sense, pointing constantly



to both the material and ideological aspects of the capitalist appropriation of female labor. To illustrate, even as Kollontai expressed the hope that a new working-class society with its own ethics of work and intimacy was possible, she acknowledged that capitalism had permeated into the most intimate lives of individuals as women resorted to sex work out of greed, thus problematizing any simplistic “poverty as cause” explanation. Further in her account, capitalism operated at both the material (discriminatory labor markets) as well as ideological (possessive individualism) levels. For Fortunati, meanwhile, capitalism as a mode of production determined markets in female reproductive labor, treating labor in dual terms as production/value and reproduction/non-value (1995, 9), thus ensuring the production of surplus value for capitalism through the nondirectly waged relation. For dependency feminists, the international division of labor that capitalism fostered was central to the appropriation of female reproductive labor. They focused in particular on the circuits of capital flow or the “objective links,” as Mies termed it, between the economies at the core and the periphery. This was not, however, an ode to the internal progressive drive of capitalism as it sought to transform backward economies elsewhere than in the West. Rather, it was a trenchant critique of its ability to do so only on the back of the labor of millions of subsistence producers through mechanisms of superexploitation. Note how this disrupts the radical feminist assumptions of the feudalism of South Asian sex markets. Later dependency feminists like Truong remained within the framework of dependency feminism, elucidating in addition to the role of multinational capital in extracting surpluses from the periphery the effect of national development policies. For postindustrial feminists, the deep structures of capitalism extended, not merely to the fostering of sexual commerce and the expansion and diversification of sex markets, but also to its normalization and accumulation of profits through a dual logic, distinguishing between commodified and uncommodified sex. Further, late capitalism produced paradigmatic changes in the economy, the family form, the cultural norms around sexual ethics, and the day-to-day organization of sex markets. Thus, we have an account of both the horizontal reach of late capitalism evidenced by the extensive interpenetration of realms of socioeconomic life that it enables, and its vertical reach in terms of its concrete implications for sex markets. This relentless clarification of the powers of capitalism at the macro/micro and material/ideological levels is possibly why a work position was rarely forthcoming from materialist feminism.

In conclusion, I have attempted to dispel myths that materialist feminist theories of sex work supported the work position. In fact, most materialist feminists were staunchly opposed to the work position, construing it as the very antithesis of work (the sex worker as labor deserter in Kollontai), to treating it with neglect (by domestic labor feminists), to treating it as a highly oppressive (Jaggar) or coercive form of work (Singer). Only outside the discursive domain of Anglo-American feminist theory and in the work of Fortunati does sex work become conceptualized as a form of reproductive labor that ought to be actively



regulated as work, contrary to the leftist intellectual and political milieu of the times. Interestingly, European feminism was also the space where a radical materialist feminism was most robustly articulated. The materialist feminist reluctance to acknowledge sex work as work is hardly surprising. Materialist feminists were, after all, structuralists, like radical feminists, even if “paranoid” in their structuralism at times.<sup>21</sup> Materialist feminist analyses of sex work related to radical feminism itself in complicated ways. Some feminists early on made the break from Marxist feminism, unconvinced that it could tell the whole story of women’s oppression, preferring radical feminism. Yet others like Singer resorted to radical feminism sporadically to support their arguments. Dependency feminists like Mies, on the other hand, produced a full-blown synthetic radical materialist feminism, brilliantly exemplified in the context of sex work by the term “sexploitation.” Yet others performed a structuralist analysis very much like radical feminists, except on the register of the economic, sustained by essentialist notions of the irreducible differences of third world economies when compared to the first world.

Yet the most strikingly fundamental difference between materialist feminists and radical feminists relates to the policy path their structuralist analyses of sex work led them down. Although few materialist feminists advocated for the work position, they did not, unlike radical feminists, seek to abolish sex work. This impulse stems from an understanding of the discriminatory effect of an anti-sex work criminal law vis-à-vis marriage (Kollontai), its adverse effects on sex workers (Fortunati), its ineffectiveness and ability to render sex workers vulnerable (Singer), and finally a close attention to the unintended consequences of regulatory models (Bernstein). All of this sets them apart from radical feminists.<sup>22</sup> It is almost as if the more complex the understanding of the power relations that mediate sex work in materialist feminism, the greater the refusal to abolish sex work or invoke a sharp instrument like the criminal law.

As radical feminists and sex work advocates reconsider the materiality of sex work, I have argued that materialist feminism has much to offer to a theory of sex work that is keen to questions of power while not treating it as an exceptionalist form of women’s labor. In that sense, materialist feminists have consciously moved well beyond the touchstone position of Marx’s characterization of sex workers as “the lowest sediment of the relative surplus population . . . vagabonds, criminals, prostitutes, in short the actual lumpenproletariat” (Fortunati 1995, 57; Truong 1990, 35). They have offered instead a nuanced understanding of commodification beyond the Hostile Worlds view, tracing the patterns of commodification in contemporary sex markets. Further, they offer a vocabulary of reproductive labor and women’s work that is far more geared to delineating the specificities of a complex market-mediated phenomenon like prostitution than that of sexual violence. They are also not restricted to a feminist analysis of the sex work transaction itself, theorizing instead the macro-political economic conditions of sex work without condemning third world sex markets as feudal. At a more intermediate level, they identify class

processes within specific sex markets, which I elaborate on in chapter 7. Last, but not least, their lack of a decisionist impulse when it comes to anti-sex work criminal laws clears an experimental space for more distributive possibilities for prostitution law reform. Drawing on the materialist feminist theorizing of sex work, in chapter 7 I offer a postcolonial articulation of the work position, of the specificities of the macro-political economy of Indian sex markets and possibilities for a theory of exploitation within these sex markets. For now, I switch gears in chapters 4 and 5 to explore the political economies and legal ethnographies of two Indian sex markets, that of Tirupati, a South Indian temple town, and of Sonagachi, Kolkata's largest red-light area. Building on these chapters, in chapter 6, I use the experimental space for prostitution law reform to formulate a legal realist critique of varied proposals for law reform in the Indian context.

PART TWO

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## **The Political Economy of Sex Markets**

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### **Not on the Lord's Agenda**

#### The Traveling Sex Workers of Tirupati

The auto rickshaw halted a few feet from the entrance to the Tirupati railway station. Packed with pilgrims at every hour of the day and night, this hot summer afternoon was no different. Meera “madam” and her consorts weaved their way through the crowds of pilgrims in various states of waiting to and from several destinations. In the mass of bobbing heads (some freshly shaven), some were sleeping, some awake, some dozing off, some waving the flies off their food, the others haggling with vendors to buy fruit, flowers, and souvenirs from their visit to the abode of Lord Venkateswara. Lying on the floor of the main waiting room was a frail woman, maybe in her thirties, wearing a sari that covered very little of her body, now already a bag of bones. There were flies all over her body. There was an empty water bottle lying next to her, and a blanket at her feet. Shanta saw Meera madam but did not have the strength to get up. A flurry of questions followed—peer educators and neighbors confirmed that Shanta had last eaten a few days back. No matter what she ate, she could not keep it down. Meera madam asked Shanta what she wanted to eat anyway. She mumbled something—“rice,” maybe? The food was ordered from a nearby stall. Meanwhile, it transpired that Shanta had been to the hospital a few days ago. These were the last stages though; they all knew that nothing could be done at this point. Shanta had a nine-year-old son who had gone missing. When the food arrived, she tried but could not eat. A few days later, Nitya, a peer educator, told me that Shanta had passed away. Her body lay at the railway station, awaiting removal by the Tirupati municipal corporation. Her husband did come to see her though, I was told, to bear witness to the passing of his sex worker–wife as she succumbed to AIDS.

Such is the plight of Tirupati's sex workers in a city that is home to the wealthiest temple in India and possibly the world. In many ways, Shanta's passing is an allegory for Tirupati's sex market: small, lucrative, largely street-based, yet ravaged over the past decade by HIV/AIDS. I employ here the well-worn and indeed problematic motif of the sex worker as a diseased and dying body to signify that at this historical juncture in India, it is the politics of pandemic control that frame the sex work debates, at times even providing faint hope for the possibility

of sex workers' rights. Yet in the course of this chapter, other images of Tirupati's sex workers will emerge—that of sex workers who travel the breadth of the country to do sex work, challenging the fetishized stereotype of the brothel-based sex slave in a third world metropolitan city; that of the housewife sex worker who experiences guilt because her husband earns a fraction of what she makes from his hazardous occupation; and of bargaining by street sex workers with the local police in the shadow of the anti-sex work criminal law, the ITPA. I use the first part of this chapter to highlight the centrality of the Tirumala temple to the political economy of Tirupati. In contrast to Sonagachi, a red-light area in Kolkata, which is the subject of chapter 5, I use Tirupati to exemplify Indian sex work in the provincial hinterland embedded, like many other South Indian sex markets, in the economy of pilgrim tourism. Set against this backdrop, I delineate the political economy of its small yet diverse sex market by focusing on the institutional settings in which sex work is carried out, as well as its modes of organization. I outline the conventional understanding of the role of the criminal law in sex markets, which I call the structural bias thesis. I ask to what extent it is borne out in Tirupati itself, suggesting alternate lines of legal analysis.

As mentioned earlier, much of my work in Tirupati would not have been possible without the help of a local NGO, WINS, and its indefatigable founder and social activist R. Meera and her colleague Sreeram, a lawyer. Meera's goodwill among community sex workers proved invaluable in their willingness to speak to me. For the most part, I spent my time with peer educator sex workers, many of them still active in sex work, as they shepherded me around Tirupati, distributing condoms and mobilizing sex workers. As I cantilevered myself into this social setting, I found myself the recipient of their secrets, typically suspicions that they would not openly share with each other—"Was the sex worker who was rapidly losing weight 'positive' [i.e., HIV positive]?" "Was that peer educator who claimed to have quit sex work not continuing to entertain customers and setting a poor example for her teenage daughter?" "Did this teenage sex worker, for all her pretensions about wanting an alternate livelihood, really want to quit sex work? Indeed, didn't her personality suggest that she would become a successful 'owner' of a sex business someday?" Even the researcher could not be kept out of the discussion. Early on in my stay in Tirupati, during a discussion I led about Dutch toleration zones at an advocacy workshop, a peer educator wryly remarked that if Tirupati had toleration zones, even I would attract customers. On this note, I set out to study sex work in Tirupati.

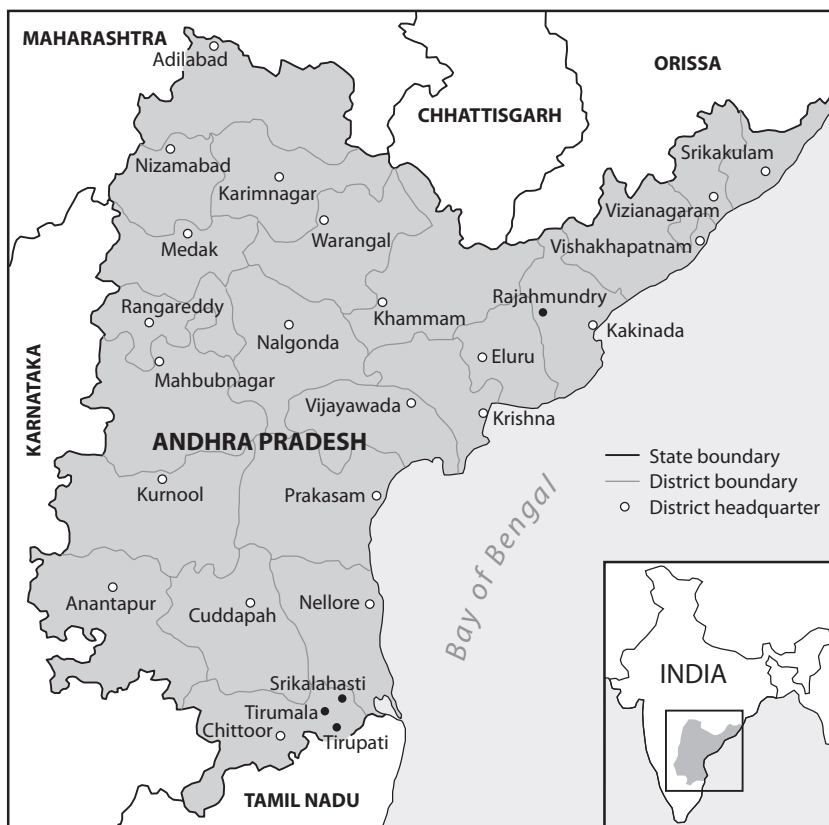
### ■ The Temple Economy of Tirupati Situated

Tirupati is located in Chittoor district in the southern Indian state of Andhra Pradesh (see map 1). Andhra Pradesh (AP) was put on the world map by its erstwhile chief minister, N. Chandrababu Naidu, who avidly courted global high-tech capital, incubated several neoliberal projects, including economic

restructuring and privatization, and even successfully bid for a World Bank-funded pilot poverty alleviation program. On the national AIDS map, AP has the second-highest prevalence of HIV in the country (Action Aid Andhra Pradesh 2006, 4). It also tops the list of source states of trafficked sex workers (Sen and Nair 2004, 40, 281), especially to sex markets in the country's metropolitan cities, as well as within the state itself (ibid., 55). The provincial government has responded to this situation in predictable ways by setting up a rehabilitation and relief fund for trafficked victims, giving them each 10,000 rupees to facilitate their repatriation (Shakti Vahini 2004, 17) and dispensing 50,000 rupees to victims of sexual exploitation. It also calls for the increased criminalization of sex markets through laws against organized crime, having suggested criminalizing customers as far back as 2003 before the federal government even contemplated criminalizing demand. Indeed, by 2007, AP was the first Indian state to form anti-human trafficking units under a joint program with the United Nations Office on Drugs and Crime and the federal Ministry of Home Affairs (State Crime Records Bureau AP, 2007). Nonlegal measures against trafficking included the formation of 25,006 community vigilante groups formed by village functionaries, according to Vasudha Mishra, the secretary at the AP Department of Women and Child Development, to keep an eye on women and girls most susceptible to trafficking for sex work. Such surveillance at minute levels of social interaction is symptomatic of the sex panic around trafficking.

Tirupati in the Indian psyche is synonymous with the Tirumala temple and Lord Venkateswara. The temple is about an hour's drive from Tirupati on a range of hills and in the town of Tirumala and is said to have existed for the past twelve centuries. The Tirumala temple is one of India's most famous and popular temples, drawing anywhere between sixty thousand and one hundred thousand devotees a day who seek to have *darshan* (or be in the presence) of the Lord. In 2005, the AP endowments minister announced that the Tirumala Tirupati Devasthanams, a charitable trust that manages the Tirumala temple and eleven other shrines in the area, had surpassed the Vatican in terms of its number of pilgrims and income to become the "numero uno pilgrim centre of the world" (*The Hindu* 2005a).

With the modernization of travel infrastructure in the region since the 1950s, there has been a dramatic increase in devotees visiting the temple, with the wealth of the TTD growing from 3.3 million rupees in 1951–52 to 21.8 billion rupees in 1996–97 (Gopal 2002, 144).<sup>1</sup> The primary mandate of the TTD is to meet pilgrims' needs, and its efficiency in processing what some have called the "pilgrim conveyor belt" (Anirvinnal 1998, 264) is considerable. Yet given its surplus resources, a broad legislative mandate, and the provincial government's control over the TTD, its activities have extended to a large range of secular developmental activities for the benefit of Tirupati and the region itself. In 1996–97 alone, the TTD spent 3.4 billion rupees (ibid., 12, 231), approximately 15 percent of its annual revenue, on the health, education, and developmental sectors, leading an observer to conclude, "In one word, the hand of the T.T.D. is behind every secular institute or project that the Chittoor district in general



Map 1. The state of Andhra Pradesh

and the Tirupati town in particular have come to have. Without the T.T.D. the urban development of Tirupati town would have be [sic] impossible” (ibid., 11). The TTD is thus more than a mere statutory body regulating the activities of a religious institution; it is a “mini-government” and one of Tirupati’s biggest employers, with sixteen thousand employees on its rolls (ibid.). I will elaborate on the TTD’s role in relation to sex workers later in this chapter, but for now suffice it to say that the hypercommercialism of religious tourism in Tirupati may lead us to reconsider our varied dispositions toward markets and money and their commodification of religion on the one hand, and sex on the other. It is against this backdrop that I proceed to describe the sex market in Tirupati.

### ■ The Sex Market in Tirupati: An Introduction

The primary form of sexual commerce in Tirupati is transactional sex work. Despite the association of Tirupati in the popular imagination with religious



worship,<sup>2</sup> sex work here takes place in several institutional settings. I do not confine my study to the geographic limits of the city of Tirupati itself, but extend it to towns and cities within a two-hour radius, including some in the neighboring state of Tamil Nadu. This is because in Tirupati, as in Southern India more generally, there are no red-light areas or spatially marked neighborhoods housing brothels. Instead, sex workers are mobile and regularly travel to the sex markets of nearby towns and cities. The sex market in Tirupati is fairly small. As of 2000, WINS estimated that there were approximately 250 to 300 sex workers in Chittoor district and roughly 160 sex workers in Tirupati (Women's Initiatives 2000, 10). A more recent estimate by PASS, an NGO currently working in Tirupati, places the number of sex workers in Tirupati at 1,400, although they actively work with only about 400 sex workers.

How do sex workers in Tirupati characterize their occupation? A linguistic mapping of the terms in circulation is revealing. A first set of terms in the vernacular in the form of swear words reflects the low social status of sex work. These include *lanja* for slut or whore and *lanja koduku* or whore's son in Telugu. In Tamil, *tevadai mundai* is used for a sex worker<sup>3</sup>—the conjunctive formulation of “whore-widow,” highlighting the oppositional relationship between sex work and marriage by reiterating the widowlike status of the sex worker. In contrast, in formal speech protocols sex work is referred to as *padukku vrutti* in Telugu (*padukku* means bed and *vrutti* means business) and as “sleeping with one's client” in Tamil. The usage of such terms is confined to researchers and academics rather than peer educators and sex workers. The latter instead use the term “sex worker” because placing sex work on a par with health work and social work in their view destigmatizes it. However, a whole host of colloquial terms for sex work predated NGO intervention. Housewives referred to sex workers as “being in business,” reflecting a collective social understanding of the varied uses to which women put their sexual labor. In my interviews with sex workers, they used *pani* (work in Telugu) or *thoril* (work in Tamil) for sex work and referred to sex workers simply as “women.” In contrast to the DMSC's use of a specific Bengali term, which literally translates into “sex work,” peer educators in Tirupati typically used English terms, like doing sex work “on contract,” doing “secret” sex work, or working with an “owner” or “broker,” reflecting the organizational features of sex work rather than their own identity as sex workers.<sup>4</sup>

That the primary referent for these colloquial terms for sex work is *labor*, if only in the descriptive rather than normative sense, suggests one of three possibilities. It could refer to the unspeakability of the “sex” in sex work given the Indian cultural context with a deflected focus on the work component of the term. Alternatively, it may signify sex workers' heightened (but by no means exhaustive or unconflicted) experience of the entrepreneurial aspects of sex work. Finally, sex workers may experience sex work as work, because women more generally understand sex as work. In Hindi, for instance, the most common expressions used by wives for sex were *kaam*, that is, work, and *dhandha*,

or business (Kakar 1989, 22), suggesting that they viewed sex more as a chore or involving “contractual and impersonal exchange relations” (ibid.) rather than a pleasurable activity, which is the basis for a companionate marriage.<sup>5</sup>

If sex became work, then work demanded sex. Regional literature (Devi 2002) documenting the experiences of trafficked migrant labor and the pamphlets of Indian sex worker organizations are replete with references to demands for sexual favors from male employers, suggesting that they are an integral part of many poor women’s livelihood. Moreover, when women choose sex work over other work requiring sexual services, sex work transactions are patterned after migrant labor in the unorganized sector. It is at these intersections where sex is perceived as work and work demands sex that sex work needs to be understood rather than by fetishizing sex as necessarily reciprocal and pleasurable and work as always dignified.

Sex work in both Tirupati and Kolkata takes place in varied *institutional settings*. In Tirupati, these settings include the street economy, the household economy, and the hospitality economy. In Kolkata, while sex work is conducted in almost all these institutional settings, I focus on the brothel, an institution that is unique to the sex industry. To the extent that the institutional setting presupposes a certain set of stakeholders and the relations between them, it influences a sex worker’s functional independence. Observers, particularly public health experts, will, however, often conflate quite different kinds of sex work based on their common mode of organization. For example, house-based sex work (Dandona et al. 2005a) is often conflated with brothel-based sex work because both involve a group of sex workers whose sexual labor is managed by a third party. Yet, the political economy of these forms of sex work, the subjectivities they entail, and their social perception differ substantially because of the institutional setting in which they are performed, namely, the household and the brothel, respectively. Conflation is also often based on the spatial setting in which sex work is performed, so that sex work in a lodge setting is assumed to be brothel-based.

Equally, if not more, critical to a sex worker’s independence than the institutional setting, is what I call the *mode of organization of sex work*. Others have referred to these modes as class processes (Van der Veen 2001), which I do not use here because it does not adequately capture the nonmaterial aspects of the social relations of sex work. In the increasing order of a sex worker’s functional independence, these modes of organization of sex work include the bonded labor mode, the employee/contractor mode, and the self-employed mode. Moreover, there are typically three relational dynamics in sex work, including the tenancy relation with respect to the site of sex work; the labor relation between the sex worker and a third party, if any, who manages her sexual labor; and the service relation between the sex worker and the customer. *Internal stakeholders* usually, though not always, have a functional role in the performance of sex work. *External stakeholders*, on the other hand, despite their influence on the conduct of sex work, are not party to its relational dynamics and do not play a

functional role in its organization. Not all three relational dynamics are evident in every mode of organization of sex work. To illustrate, when a sex worker works in bonded labor in a brothel, she will not have a relationship with the landlord of the premises, but her sexual labor will be controlled by a brothel keeper, who enters into a tenancy relation with the landlord. Similarly, the service relation in this instance will be between both the brothel keeper and the sex worker on the one hand, and the customer on the other. Finally, the *scale* of a sex business has important implications for the functional independence of sex workers. In Tirupati, unlike Kolkata, sex businesses tend to have less than ten sex workers. As I will demonstrate, a sex worker's independence can be assessed only against the broader institutional backdrop of sex work, her mode of organization of sex work, and the scale of the sex business. Further distinctions can be made within a given sex market based on a sex worker's *income*, generally gauged in terms of the payment per customer for a single sexual encounter, affording opportunity for release within a definite period of time (or "per shot," in industry parlance). Yet income and independence are far from being directly correlated. Finally, I refer to sex businesses in a given location, such as a town or city, as a "sex market" and use the term "sex industry" for the economic sector involving sex work.

As I have already mentioned, the three predominant institutional settings for sex work in Tirupati are the street economy, the household economy, and the hospitality industry. Street-based sex work occurs broadly within the institutional setting of street life and its informal economy, accompanied by routine harassment by the police and rowdies or hooligans. House-based sex work takes place within the institutional setting of the household, drawing predominantly, but not exclusively, on the sexual labor of housewives. I refrain from using "family" here because it implies a particular heterosexual, nuclear family form not borne out empirically. Moreover, I differentiate it from caste-based sex work conducted within an extended family characterized as the "family economy" of sex work (Agrawal 2008). Since I did not encounter such customary prostitution in Tirupati where men and their wives live off the income of the men's sisters from sex work, I confine myself to a household economy of sex work that depends on housewives, independent of their caste status. Sex work in the hospitality industry in Tirupati takes place in lodges and hotels. Tirupati's sex workers, like those in AP, more generally do not always work in a single institutional setting but prefer sex work in multiple institutional settings (Project Parivartan 2007, International HIV/AIDS Alliance 2006).

### Street-Based Sex Work

Street-based sex work refers to sex work performed in the institutional setting of the street economy. Sex workers solicit their customers at public venues, including the bus stand, the railway station, the cinema, and the highway. They

perform sex work at lodges or secluded public areas nearby without regular third-party mediation. I discuss two categories of street-based sex workers: sex workers who work along the highways that connect Tirupati to other major Indian cities and sex workers who work at public venues in and around Tirupati.

### Highway Sex Work

Sex workers in India accompany and perform sex work with truck drivers and their cleaners across the breadth of India's highway network, which spans 36,041 miles, causing the Indian government and international donor agencies to specifically target them for HIV prevention efforts. Tirupati is less than an hour away from national highways 4 and 5 and other regional highways attracting sex workers from Tirupati and neighboring towns in the path of highway traffic. Highway sex workers in Tirupati are typically older than thirty (Action Aid Andhra Pradesh 2002a, 13) having engaged in concubinage or sex work in a massage parlor, lodge, or house setting.<sup>6</sup> They work in the huts near the eateries at rest stops on the highway or in nearby jungles and in vehicles when they accompany truck drivers between towns (*ibid.*, 56). Customers also include auto rickshaw drivers at bypass roads near the highway. The amount per shot varies between 30 and 200 rupees and is relatively low compared to other street-based sex work in Tirupati. Highway sex work typically involves own-account sex work, with little or no third-party mediation, hence there is no labor relation.

The police are the main external stakeholders in highway sex work. However, the risk of arrest and harassment is low since their presence is limited to highway checkpoints. Still, due to the low foot traffic on highways, sex workers are dependent on customers for mobility, making them highly vulnerable to violence from customers and third parties. Sex workers view highway sex work as the least lucrative form of sex work, often supplementing it with conventional employment and house- or lodge-based sex work. Vatsala, a forty-year-old sex worker and WINS peer educator, for instance, worked on the highway four times a month to supplement her salary. Thus, highway-based sex work in and around Tirupati involves minimal investment, low profit, and low legal risk.

### Other Street-Based Sex Work

Street-based sex work in Tirupati exists at three locations within a mile's radius of the city center—the bus station, the railway station, and the streets near a group of cinemas known among the seventy to one hundred street sex workers there as “group theaters.” In addition, a smaller number of sex workers travel daily to Tirumala to vend temple offerings, but also do sex work discretely in toilets or pilgrim accommodations there before returning to Tirupati in the evenings.

### Street-Based Sex Work at the Railway Station

Tirupati, as a major destination for pilgrims, is well connected by rail to several major Indian cities. Approximately forty to sixty sex workers work at the Tirupati railway station and typically make contact with customers on incoming trains and take them to empty carriages on trains in transit or to public toilets at the station. In neighboring Chittoor, sex workers take customers to nearby lodges. Many of these sex workers are homeless and sleep in the station's waiting rooms and use the free facilities at TTD *choultries* near the stations.<sup>7</sup> Unlike highway sex work, sex workers at the railway station include both experienced sex workers and newcomers. Fathima, a thirty-five-year-old transgendered sex worker, having escaped from a Mumbai brothel with a considerable sum of money (Action Aid India and WINS 2004, 48), begged and did sex work on trains and in houses. Similarly, Jamuna, a disabled widow, started out by begging in trains when an older beggar threatened to harass her unless she did sex work and turned over the earnings. Eventually, she married a ragpicker, who is now her pimp. The railway station was also the only place in Tirupati where I met transgender sex workers. The rate per shot is between 150 and 300 rupees and typically involves own-account sex work, although sex workers occasionally use touts.

There are three sets of external stakeholders in sex work at the railway station: those in positions of authority, stakeholders in positions of low bargaining power due to their illegal living and working conditions, and stakeholders who are effectively bystanders. Stakeholders in positions of authority include policemen from the federal Railway Protection Force charged with implementing the Railways Act, 1989, the local Tirupati police, and railway employees like ticket collectors and the station master. Sex workers at the station complained that the sex worker population had come down to almost one-fifth of what it used to be due to police harassment. External stakeholders in positions of low bargaining power include vendors and several homeless people who live and work at the station, including beggars, street children, ragpickers, and pickpockets. Bystander stakeholders include porters, railway employees, such as machinery repairmen, private contractors who service trains in transit and maintain access to fee-paying toilets, and owners of small shops on the platform. Except for customers of sex workers, who are typically train passengers, all of the listed stakeholders are repeat local players in relation to sex workers. The conditions of sex work therefore depend not only on the risk of arrest by the police, but also the dispositions of these repeat players toward sex workers. Street-based sex work at the railway station thus involves minimal investment, relatively low income, and moderate legal risk.

### Street Sex Work at the Bus Station and Group Theaters Area

There are between one hundred fifty and two hundred sex workers working near the bus station and "group theaters" area. The younger sex workers are

between eighteen and twenty-eight years old. Many sniff and drink “solution” and only two had a child at the time of my fieldwork.<sup>8</sup> The older sex workers are between thirty and forty-five years old, have two children on average, and view themselves as responsible, mature women doing sex work to support their families, with some traveling to Tirupati on a daily basis.

I interviewed seven sex workers working near the bus station and group theaters, and all of them except one belonged to the younger group of street-based sex workers. Their life stories suggest a range of causes for and modes of entry into sex work. Joardar’s typology (1984) of causes for entry into sex work is instructive here. Based on Punekar and Rao’s classic work (1967) on sex workers in Mumbai, Joardar offers a taxonomy of factors for why and how women enter sex work (1984, 210). These causes include *major predisposing factors* that cause female vulnerability and *contributory factors*, which can be either *precipitating* or *attracting* and are immediately responsible for a woman’s entry into sex work. Examples of major predisposing factors are poverty, death of the husband or father, or ill treatment by a husband, resulting in desertion or separation. Precipitating contributory factors include environmental influences, such as living where sex work is done, “bad” company, and third-party deception. The attracting contributory factor is a desire for an easy life (*ibid.*, 211). Applying this taxonomy to sex workers at the bus station and theaters, the major predisposing factor was the failure of the natal and marital family. Natal families were abusive or countered their daughters’ transgression of female sexual codes with compulsory marriage. Marital failures related to dowry harassment and spousal violence. Contributory factors ranged from a sex worker being forced by her husband into sex work, to runaway women stumbling into it by watching other sex workers (environmental influence), or being recruited by acquaintances and friends, “bad influence” in Joardar’s terms.

Take the case of Swarna, who was twenty-eight when I interviewed her. Originally from Vijayawada in coastal AP, she came to Tirupati at the age of eighteen after marrying against her parents’ wishes. Spousal neglect culminated in her husband taking her to Nagari, a town near Tirupati for lodge-based sex work “on contract” at the rate of 3,500 rupees for seventeen days. He took Swarna on a series of such contracts and pocketed the income. While the owner of the sex business provided food and accommodation, Swarna depended on gratuities to meet her expenses. About six years ago, her husband stopped coming to take her contract money. Now she lives at the railway station or the free TTD choultries and solicits customers near the bus station. She earns between 100 and 200 rupees per shot, paying 60 rupees to the lodge owner for a room. She supplements this by ragpicking and, despite being dazed from abusing solution, is always vigilant about her collections from street children. Her friends introduced her to abusing solution, which made her feel confident. Swarna refused to attend a locally run NGO detoxification program and also suffered from epilepsy and sexually transmitted infections (STIs). She occasionally attended

WINS meetings and claimed that she would choose tailoring or manufacturing over sex work if only men would stop propositioning her for sex.

Gitanjali is an eighteen-year-old sex worker native to Tirupati. Both her parents are TTD employees. She became sexually active at eleven with local men who would pay her for sex after taking her to the cinemas. It was a matter of time before Niti, the “group leader,” arranged her sex work transactions, beating her if she refused. When her parents found out, they arranged her marriage at seventeen, but dowry harassment and physical violence eventually led to divorce. The stigma of divorce resulted in her parents turning Gitanjali out of the home, so she was on the streets doing sex work. Gitanjali had line-shaped scars on her wrists from self-inflicted harm when high on solution. She was pregnant when I met her, but lost her baby soon thereafter.

Leela, nineteen at the time I interviewed her, looked the youngest and was from a village near Tirupati. She was tall and thin with a scar under her left eye and scars on her hands, the visible effects of years of parental abuse. Escaping from home, she used her savings from her rice mill job to travel to Tirupati, where her maternal grandfather begged for a living. He refused to help her, so she began to live on the railway platform. She became a ragpicker and saw women at the bus station sell sex. She was once propositioned by a customer, and although she barely understood what sex was soon identified this as a means of livelihood. She lived with her husband, a cycle rickshaw driver who had a meager and erratic income and sold sex against his wishes. She usually worked during the day, and on a good day had five to six customers, earning 150 to 300 rupees per shot. A few times, she had been paid 500 rupees for an hour. Saying sex work was bad, Leela felt that given a chance, she would prefer construction work or work in a hotel or house.

Leela's friend Kritika was from Bangalore. Orphaned at a young age, her grandmother raised her. With no formal education, she worked as a domestic maid for 2,000 rupees a month. Married off by her grandmother at seventeen, she soon returned due to dowry harassment. After her grandmother's death, Kritika unsuccessfully tried to locate her uncle in Chennai, a South Indian city, for a share of the family inheritance. As she spent the night at the Chennai train station, men solicited Kritika for sex, but she could not understand the local language, Tamil. Back in Bangalore, empty-handed, she was spotted by a brothel keeper in her neighborhood, which was close to the main bus station. Kritika started doing sex work there for 350 rupees per shot, giving 50 rupees to the brothel keeper. Keen to keep this a secret from her husband, she left for Tirupati where her sister lived. She did sex work during the day without her sister's knowledge. Kritika expressed a preference for factory work over sex work, yet she earned at least 1,000 rupees on a good day from sex work, whereas the monthly income from skilled construction work in a neighboring district came to 3,000 rupees; factory work, meanwhile, paid 30 rupees a day (PRAXIS and Action Aid India 2001, 55).



Anita is a thirty-year-old sex worker who had done sex work for twelve years when I met her. Before coming to Tirupati, she did construction work, domestic work, and then sex work at the Renigunta train station. She had two children. Being experienced, she assumed a protective role toward the younger sex workers in the area. Keertana, another older sex worker, working at the bus stand since 1997, revealed in a 2002 interview (Action Aid India and WINS 2004, 8–9) that she grew up as an orphan in a state juvenile home but escaped to Tirupati when she learned that her brother wanted to marry her off. Anita offered Keertana shelter in Tirupati, but when fights broke out over customer's requests for Keertana, she started doing sex work. She also acted as an agent for other sex workers, taking a 30 percent commission. She, however, turned over all her income to a lover, who stabbed her during a quarrel, requiring a month's hospitalization. As of 2002, Keertana was HIV positive, pregnant from a new lover, and continuing sex work.

The above narratives suggest that sex workers at the bus station and group theaters in Tirupati included newcomers and sex workers from other institutional settings. They dressed traditionally when soliciting, making it difficult to distinguish them from other women. Establishing contact with customers through a sign system, they took them to nearby lodges and rented a room for a short period. Sex work typically involved own-account work with rare mediation by an older sex worker. Street-based sex work near the bus station and group theaters paid better than highway sex work, typically between 200 and 300 rupees a shot, with occasional tips, out of which the sex worker paid 30 to 60 rupees to the lodge operator. Some sex workers even charged 1,000 rupees or more per transaction. Customers included local residents, TTD employees, traveling medical and sales representatives, and occasionally pilgrims.

Sex workers near the bus station and group theaters related to external stakeholders much like the sex workers at the railway station. Harassment from external stakeholders in positions of authority came from the local police and from home guards, part of a paramilitary force. Yet sex workers here were better mobilized than sex workers at the railway station. Stakeholders with low bargaining power from illegal living and working conditions included street vendors, food stall operators, homeless people, rowdies, street children, and ragpickers. In particular, rowdies, typically unemployed youth in their early twenties, picked pockets, extorted valuables and sexual favors from sex workers at knifepoint, and sometimes demanded commission from customers. By-stander stakeholders included lodge owners and operators, cinema operators, owners of neighborhood shops, and auto rickshaw drivers. From the sex workers' point of view, this form of street-based sex work involved minimal investment and high profit but also a moderate to high risk of arrest.

Generally speaking, street-based sex workers in Tirupati were independent, with the service relation being the most salient in the absence of an elaborate tenancy relation or labor relation. External stakeholders in the street economy also influenced the sex markets. Although the investment, profit, and legal risk



profiles varied for the various subgroups of street-based sex workers, in a state survey of sex work, almost half of all street-based sex workers had a count-on and life skills score of between 2.51 and 3.50 on a scale of 1–5,<sup>9</sup> with 5 indicating the maximum control and skills level, suggesting their relative independence (International HIV/AIDS Alliance 2006, 17–18).

### House-Based Sex Work

House-based sex work takes place within the institutional setting of the household, which in the absence of red-light areas in South Indian cities is far from a marginal setting. In a 2002 study of 6,300 sex workers in Chennai, 71 percent performed house-based sex work (Indian Community Welfare Organization 2002, 8), which appeared exclusive with entry premised on prior whetting by the owner (Mujtaba 2003). It was also the most lucrative, with sex workers earning 3,000 rupees for eight and a half days and involving the least number of workdays when compared to other institutional settings (Indian Community Welfare Organization 2002, 21).

In Tirupati, approximately one hundred fifty sex workers do house-based sex work discretely in residential neighborhoods that involve the contractor and independent modes of organization. In the contractor mode, several sex workers congregate at a house, typically owned by the owner of the sex business (“owner operator”) to whom they contract out their sexual labor on an ad hoc basis. The owner operator may herself do sex work should the need arise. In the independent mode, an individual sex worker rents her own space, working for her own account.

Housewives are the primary source of sexual labor for house-based sex work. Hence, we find the appellation “secret” sex workers; secrecy here referring to the unspeakable nature of extramarital sex and their husbands’ unawareness that they do sex work. This transgression induces tremendous guilt in sex worker housewives when compared to other house-based sex workers. In addition to housewives, women entrepreneurs selling saris and working in factories also engage in house-based sex work, sometimes traveling from outside Tirupati for several days on “contract,” a phenomenon I will detail in the context of lodge-based sex work. Up to 70 percent of house-based sex workers use brokers as touts to locate customers, with the rest finding them on their own (Women’s Initiatives 2000, 14). The sex workers I interviewed in 2009, however, observed their less-frequent use over the years, partly because brokers attract police attention. In a neighboring town, Nagari, the customer pays the broker a commission of 25 percent of the price per shot (*ibid.*). Customers include visitors and local residents, including the local elite, namely, police officers and TTD officials. A majority of secret sex workers charge between 100 to 200 rupees per customer, with a small fraction charging between 200 and 300 rupees (*ibid.*) or even up to 1,000 rupees. Internal stakeholders include the owner operator, customers, brokers, and the landlord, if any. The main external

stakeholder is the police. Both in terms of the bodily capital required and the potential for income, sex workers view house-based sex work as being above street-based sex work but below lodge-based sex work.

#### House-Based Sex Work by Contractor Sex Workers

I met house-based sex workers in the three Tirupati neighborhoods of Marutnagar, Ashoknagar, and STV Nagar. Although within walking distance of one another, Marutnagar is a middle-class neighborhood, while STV Nagar and Ashoknagar are working-class neighborhoods with a significant slum population. Nitya, a peer educator from WINS, introduced me to Poniamma, a dark-complexioned woman of medium build in her late twenties or early thirties. She owns a decent-sized house in STV Nagar that she shares with her mother (an ex-sex worker) and her two children. She has operated a sex business from here for the past ten years against the wishes of her mother's lover, an auto rickshaw driver from whom the house was inherited. Poniamma herself started out doing sex work at the Chittoor bus stand, and being extremely popular with customers decided to run a sex business.

While waiting for Poniamma, Nitya and I saw the small, dark room where customers were entertained. When a customer arrived at her house, Poniamma sent word for one of the twenty sex workers in the neighborhood, eight of whom lived in two slum areas. If no one was available, she did sex work herself. While we were at Poniamma's house, three customers called on her. They appeared nonresident, suggesting that at least some of the customer base was not local. Poniamma said that customers did not cause any trouble. She charged them 150 rupees for a half hour and 300 for an hour, from which a broker was paid 30 to 100 rupees, and where no broker was involved, Poniamma kept 250 and paid the sex worker the rest. She had recently introduced this formula to cover house maintenance costs and fines imposed during police raids. In the previous month alone, her house had been raided twice, and she had had to cough up a 1,000-rupee fine per sex worker. The police had warned that they would seal the house the next time. Poniamma's biggest problem was what she called police harassment.

As we made our way through STV Nagar and Marutnagar, we met Pavana, a housewife with two children whose husband was a security guard in a building. Pavana worked at Poniamma's house without her husband's knowledge. We also came across the houses of two owners. One was an HIV-positive ex-sex worker in her fifties who let secret sex workers use her modest two-room tenement. The house of the second owner had been raided by the police recently and was locked. House-based sex work in a working-class neighborhood thus appears to be unsustainable in the long run, but in the short run, it involved minimal investment, high profit, and moderate to high legal risk as far as the owner operator was concerned.

House-based sex work in Tirupati cuts across class lines. In 2005, Vasanthakumari, a professor of adult education at TTD's Sri Venkateswara University, was suspended for running a sex business from her four-storied home in Balaji Colony, a wealthy residential neighborhood (*The Hindu* 2005b). She had run the business for years without police action, protected by her political connections from both the ruling and opposition parties (ibid. 2005c). Unlike Poniamma, Vasanthakumari did not do sex work herself, instead hiring both older secret housewives and university students, who she reportedly forced into sex work. Also, her customer base was wealthy. Although comparable to Poniamma's sex business in size, Vasanthakumari ran a highly profitable sex business. Unlike Poniamma, however, Vasanthakumari was convicted under the ITPA. From the point of view of a wealthy owner operator then, sex work involved relatively minimal investment, high profit, and moderate to high legal risk.

#### House-Based Sex Work by an Independent Sex Worker

Although most secret sex workers contract their labor to an owner operator, some with superior bodily and social capital transition to working for their own account by renting a property. The independent mode of organization is, however, uncommon for two reasons. First, for a secret sex worker, the supplemental nature of income from sex work may not justify the costs of leasing property, soliciting customers, and managing brokers and police raids. Second, she runs the risk of being exposed to her husband during a police raid. Even if she were willing to take these risks, landlords are reluctant to rent to a single woman. Finding a landlord who will fail to notice or will tacitly permit sex work on residential premises is next to impossible.

Rehana, a secret sex worker who I interviewed at length, was, according to a WINS peer educator, an "A grade" sex worker: young, beautiful, and sophisticated. Indeed, her home was in STV Nagar, a working-class neighborhood, while she worked in Marutinagar, a middle-class neighborhood. There, she rented a small room in a house for 1,200 rupees a month, using it during working hours on weekdays. The landlady knew of Rehana's occupation and was even willing to host a meeting of secret sex workers. Recently, Rehana lent her keys to another sex worker who was followed by a policeman, which led to a police raid. The landlady and a sex worker were arrested and fined 1,000 rupees each. Hence, Rehana was lying low and we had to visit her at home.

Rehana lived in a one-room apartment in STV Nagar, an area with a mix of *pucca* and *kuccha* houses,<sup>10</sup> with her husband of twelve years, their ten-year-old son, and her husband's daughter from a prior relationship. A Muslim from Guntur, a neighboring district, Rehana was one of five children and had had limited education in the Urdu medium. Her husband had also had only primary education and was a furniture painter with an intermittent monthly income. Feeling the need for additional income, Rehana once worked in a garment company

in Chennai but was constantly sexually harassed. So she returned to Tirupati and, realizing that any work would involve sexual demands, decided to get paid well, at least for the sexual services. Rehana entered sex work through a friend and had been in it for two years when I met her, having worked for as many as eight owner operators. Most paid her only 50 to 100 rupees per shot, with only one owner operator parting with 50 percent of the price per shot, typically 300 rupees. Rehana would visit different owner operators over several weeks to ensure novelty for customers, had flexible timings, and claimed to do sex work according to her need and inclination rather than going out of the way to entertain customers.

Once Rehana rented her own room, she used her landlady's phone to locate customers through brokers. She claimed to engage only in safe sex and felt she could refuse unacceptable requests. As per Nitya, Rehana charged double the amount that Poniamma did, say, 300 rupees for a half hour, sometimes making 2,000 rupees in a day. While Rehana did not confirm this, she said her gratuities alone were 50–100 rupees on average. She was particularly vulnerable to any police action out of fear that her husband would find out about her sex work. Once arrested at an owner operator's house, Rehana performed a sexual favor for the deputy superintendent of police (DSP) to avoid an overnight stay at the police station. The DSP allowed her to pay her fine in court the next morning, subsequently becoming a paying customer. Although the police did not expect a regular bribe from sex workers, they dropped in at any time, she said, for money, drinks, and sexual favors. Yet some owner operators did pay the beat police a 100-rupee weekly bribe. From the point of view of a sex worker, independent house-based sex work involves minimal investment, high profit, and moderate legal risk.

The burdens of the secrecy of sex work affected not merely sex workers' emotional and psychic lives, but also shaped their identity as wife and sex worker, and defined relational dynamics with customers, the police, and other sex workers. On an everyday basis, Rehana maintained clear-cut boundaries between the domestic and work realms by having different sets of saris for sex work and for home use, never mixing them. For Rehana, the decision to do sex work was a curse, and she would not do it if her husband earned well. She was devoted to him and did not have lovers like other sex workers. When her husband once fell ill, she was guilt-ridden, thinking that he may have contracted an STI from her. To her relief, he had typhoid. But as the private hospital bills mounted, she was proud to have paid for most of it through sex work without depending on their relatives. She even paid the nurse to take special care of her husband before going to do sex work. Everyone attributed his recovery to her pure *thali* (necklace worn by women symbolizing their marital status). Yet Rehana felt guilty violating her husband's trust because he thought she worked at an STI/HIV information booth. Moreover, he was paid a pittance of 100 rupees for eleven hours of backbreaking, hazardous work, whereas she earned 200 rupees for five minutes of sex work. Rehana also felt sorry for her customers

because they could spend their hard-earned money on their wives instead of her, but then, she empathetically continued, their wives were too preoccupied with their natal families to even converse with them. This led them to doubt their wives' fidelity and to buy sex. In her customers' offers to maintain her as a concubine, Rehana found their recognition of her respectability. She was no professional sex worker after all. Thus, dignity in the decision to do sex work and dignity in sex work were central to Rehana's making sense of her life in secret sex work. By the time I met Rehana in Tirupati in 2009, her sex work was no longer a secret to her husband. Soon after I first met her, she had been entrapped by a policeman and arrested. At the police station where she was held, the media was invited and her identity revealed on the local evening news. She, however, continued doing sex work and had finally bought a place of her own. She was also becoming increasingly politically active with the Congress party in Tirupati.

### Sex Work in the Hospitality Economy

There is little documentation of sex work in the hospitality industry in Tirupati. Early promises by a hotel owner and by Rehana to introduce me to brokers fell through, and when I eventually met a broker, he studiously evaded my questions. Hence, I draw on journalistic accounts of sex work in Tirupati and South India generally, and conversations with sex workers, to reconstruct a basic scene of sex work in the hospitality economy in Tirupati.

### Lodge-Based Sex Work

A lodge is a small hotel akin to a motel, which is typically owner operated. In Tirupati, in addition to housing pilgrims, lodge operators rent out rooms to street-based sex workers for an hour or less at a "wash-up rate" (Truong 1990, 167) but play no functional role in it, so that the street economy more substantially influences such sex work than the hospitality industry. Instead, in this section I deal with lodge owners and operators who do play a functional role in sex work.

### Lodge-Based Sex Work with Forced/Bonded Labor and on an Employee Basis

Sex workers work in lodge-based sex work as bonded labor, as employees, and as contractors. However, contemporary accounts of lodge-based sex work in the first two modes are rare. Sex workers who worked in Tirupati's lodges almost twenty years ago mention being forced into sex work without payment and being branded and raped by their traffickers and lodge owners (Action Aid India and WINS 2004, 16, 92, 99). Some customers were reportedly benevolent—one sex worker who I interviewed and who had been forced to do sex work mentioned how a customer gave her a few thousand rupees to return home when

he realized how young she was. For the owner of a sex business, this mode of organization of sex work involves a relatively low investment, high profit, and moderate to high legal risk. Where a sex worker works as an employee, she is paid a fixed daily wage irrespective of the number of customers. For the owner of the sex business, this mode, which is relatively uncommon, involves low investment, moderate profit, and low legal risk.

#### Lodge-Based Sex Work "On Contract"

The most common mode of organization of lodge-based sex work is where sex workers work as contractors. Contracting out one's sexual labor implies a certain degree of independence and control when compared to being an employee or a bonded laborer. I consider one popular form of this mode, known colloquially among sex workers as "dating" or working "on contract." I make no assumptions as to individual autonomy that the term "contract" may imply, for going "on contract" for fixed periods of time is common in the organized and unorganized sectors of Indian labor markets. To illustrate, poor rural girls save for their dowries by going "on contract" to the textile mills of Coimbatore in neighboring Tamil Nadu where they are paid 30,000 rupees for three years' work (Sen and Nair 2004, 625). Although sex workers may have as little voice as female mill workers in negotiating the terms of their contracts, their levels of remuneration in sex work are substantially higher. With female mill workers on contract, of the promised 30,000 rupees, half is deducted for expenses (ibid.), whereas a contract for fifteen days of lodge-based sex work even in the least remunerative sex market often pays from 4,000 to 5,000 rupees. Such contracts also ensure the anonymity of travel and freedom from restrictive familial arrangements.

Women entering into sex work contracts travel to towns and cities outside their normal place of residence for fixed periods of time. These contracts are not unique to the hospitality industry. Indeed, sex workers travel on contracts for *house-based* sex work to metropolitan sex markets like Chennai (Mujtaba 2003); to *brothels* in Bangalore, Mumbai (Akbar 1998a), and coastal AP; and to work in a highway-based *street* setting (Sen and Nair 2004, 349–50). Brothel-based sex workers also travel on contracts for sex work in other institutional settings (ibid., 109). Since contracts in Tirupati and the surrounding areas are more common in lodge-based sex work, I confine myself to this setting.

Based on the apportionment of income from sex work, there are three types of contracts. In all three contracts, the owner of a sex business (hereafter owner) generally provides free housing and meals. The first type of contract is between the sex worker or her broker and the owner of a sex business, where the sex worker is assured a lump-sum amount for a certain period of time. I call this the *fixed income contract*. The second type of contract differs only in that the income from each sex work transaction is apportioned between the owner and sex worker according to a set formula. I call this the *per transaction contract*.

In a nonremunerative contract, the owner of the sex business keeps the income from sex work, leaving the sex worker to earn from customer gratuities. I call this the *nonremunerative contract*. Of these three contracts, no one contract is a priori more lucrative; rather, the nuts and bolts of the contractual arrangement; the apportionment of risks, expenses, and profits; and the intermediaries involved are determinative. The broker has a more pronounced role in the fixed income contract, while the sex worker directly enters into the “per transaction” and “nonremunerative” contracts without a broker.

#### *Fixed Income Contract*

The remuneration in a fixed income contract varies dramatically depending on the nature and location of the sex market and the sex worker's age and bodily capital. At the higher end of the spectrum, a sex worker from Ongole in AP traveling to a lucrative sex market like Bangalore earns 20,000 to 25,000 rupees for fifteen days (Women's Initiatives 2000, 23). In Tirupati, on the other hand, she will earn between 3,500 and 5,000 rupees for fifteen to seventeen days, as will a sex worker on contract in Ootacamund, a hill station in neighboring Tamil Nadu. At the lower end of the spectrum, a sex worker earned 10,000 rupees for three months on contract in Goa. Similarly, a middle-aged sex worker might earn 5,000 rupees for a three-month contract, while a teenage sex worker earns 25,000 rupees a month (Akbar 1998b). Typically, half the contract amount is advanced to the sex worker or her representative, usually a family member, with the rest paid upon the contract's completion (Mujtaba 2003; Sen and Nair 2004, 349). In some highly commercialized brothel-based sex markets in coastal AP, financiers lend capital to owners to finance such fixed income contracts.

In a fixed income contract, the sex worker receives free housing and some meals, while retaining gratuities averaging between 100 and 200 rupees per customer. The duration of the fixed income contract varies, although the longer it is, the more profitable it is for the owner of the sex business, since payment to the sex worker is fixed, but not the number of customers that she may be required to entertain. The threshold for a profitable fixed income contract is thus fairly low. In a complex sex industry like Chennai, brokers periodically went to recruitment points to procure sex workers on thirty-seven-day contracts (Mujtaba 2003) but paid sex workers only for thirty days due to intervening menstruation and travel time. In contracts for highway sex work, sex workers had to earn a minimum daily amount, failing which, irrespective of whether this was due to sickness or slack demand, that day was added to the contract's duration to make up for the loss. Similarly, in Chittoor, if a sex worker drew in less income for the lodge than her contracted payment, she received the lesser of the two amounts. The repeated use of this backstop by the owner may, however, produce reputational costs and affect his chances of attracting new sex workers. The fixed income contract is highly profitable for the owner, evidenced by his willingness to advance substantial payments to traveling sex workers.



Some lodge owners paid the costs of medical treatment of STIs, leaving sex workers to shoulder these costs when they didn't. In contracts in brothels in coastal AP (Akbar 1998b), the legal risk of business was managed by the owner, who posted bail and paid fines for arrested sex workers, but related costs were probably ultimately borne by sex workers. In highway and house-based sex work, on the other hand, the owner paid the fines levied by the police. Lodges, however, seemed to have an "escape room" where sex workers gathered to leave the lodge in the course of a police raid. There was a wide variance in the working conditions in lodges. From the owner's point of view, fixed income contracts in the lodge setting involve high investment, high profits, and a moderate to high legal risk.

Although the extent of the use of brokers is unknown, they played a prominent role in the negotiation and execution of fixed income contracts. After all, sex workers and WINS' peer educators viewed sex workers on fixed income contracts as disempowered newcomers who, being in urgent need of money, used lodge-based sex work as a low-risk training ground to learn about the business and how to behave with customers to maximize their earnings. Lodge-based sex work in a town where one did not normally reside also offered anonymity. Peer educators said that a few weeks into the contract, however, sex workers realized that they were being exploited, but they viewed it as the price of learning the ropes of the trade. Experienced sex workers typically contracted directly with the owner, although some always worked with a broker (Action Aid Andhra Pradesh 2002a, 26). At the higher end, brokers earned a 30 percent commission for supplying sex workers (Mujtaba 2003) and at the lower end a flat fee of 500 to 1,500 rupees per sex worker. This payment was either made by the owner alone or by the owner and sex worker. Brokers typically recruited sex workers in groups accompanying them to and from their destination, offering protection from rowdies and the police, unless sex workers stayed on after the contract period. In coastal Karnataka, brokers accepted the advance from owners on behalf of sex workers and ensured that they stayed at the lodge until the contract was completed (National Commission for Women 2002, 165). Some also solicited customers for an additional commission. Touts and even auto rickshaw drivers (*ibid.*) brought customers to lodges, advertising sex workers' state of origin, their youth, and newness to the local sex market. Some brokers also made high-interest loans to sex workers for expenses relating to cosmetics, tobacco chewing, and alcohol consumption (Action Aid Andhra Pradesh 2002a, 36).

The success of any contractual form ultimately depends on its enforceability. Although little is known about the enforceability of the fixed income contract in the lodge setting, its enforceability in other institutional settings is instructive. Where sex workers from certain caste groups travel to Mumbai's brothels on contracts arranged by "gangs," and do not return when expected, their families have approached their caste councils, also called *panchayats*,<sup>11</sup> which have awarded punishment and fines to brokers in breach (Akbar 1998a). Such



councils similarly arbitrate disputes in communities like the Bedias and Kolhatis, which practice customary sex work (Agrawal 2008, 63; Rege 1996, 34–35). No wonder then that financiers funding fixed income contracts in the brothel setting alarmingly claim their enforceability based on “mutual trust” (Akbar 1998b), suggesting dense communal relationships that they could fall back on.

*Per Transaction Contract and Nonremunerative Contract*

Due to the structural similarities of the “per transaction contract” and “nonremunerative contract,” and the sex markets that they are prevalent in, I discuss them together. A sex worker who enters into both per transaction and nonremunerative contracts is Savitri, a short, dark woman in her late thirties or early forties who I met in Tirupati. Deserted by her husband for her infertility, Savitri lived with her landlady, the owner of a sex business, in a shack facing an apartment complex in Tirupati. The landlady took most of Savitri’s earnings and required her to render sexual services to her husband. When I first interviewed Savitri, she was tired and complained of repeated police raids, manipulative friends who borrowed money, and her own drinking problem, which had left her penniless. In eight years, Savitri had traveled extensively for sex work and spoke of her per transaction contracts in Karaikal and Vellapuram, and her nonremunerative contracts in Mettupalyam and Madurai. All four towns are in the neighboring state of Tamil Nadu.

In Karaikal and Vellapuram, the owner of the sex business paid Savitri only 50–100 rupees of the 300–500 rupees per shot. Savitri said she earned well from gratuities and often had between ten and thirty customers daily in Vellapuram, once earning 15,000 rupees in seven days. In Mettupalyam, Savitri’s only income consisted of daily gratuities of up to 1,000 rupees. Customers tended to be businessmen from neighboring towns like Erode, Ooty, Coimbatore, and Tirupur. Savitri says she once made 15,000 rupees over five days there. Similarly, she did sex work in the famous temple town of Madurai, once earning 70,000 rupees in ten days.

On the face of it, the per transaction contract and the nonremunerative contract appear highly exploitative, as the sex worker earns only a fraction, or nothing, of the income that the owner derives from her sex work. Yet Savitri, despite her age and looks, earned relatively large sums of money over a short period of time due to a high number of customers. This suggests certain characteristics of sex markets where per transaction and nonremunerative contracts are popular. First, the rate per shot was higher than in Tirupati, which explained customers’ ability to afford gratuities amounting to 20 to 30 percent of the rate per shot. This in turn suggests relatively high customer demand and low local supply of sex workers. Alternatively, that owners can get away with contractual forms so dramatically skewed against sex workers suggests that, all other things being equal, there are few owners of sex businesses through whom nonlocal sex workers like Savitri can access customers. After all, if the customer demand was met by a high supply of traveling sex workers, the rate per shot might have

stabilized at a lower equilibrium. On the other hand, perhaps customers simply valued sexual services more highly due to prolonged absences from their wives, or had a preference for older sex workers, so that owners had no need to recruit younger and inexperienced sex workers on fixed income contracts. There was also a hierarchy of sex workers from different southern states in terms of their complexion, beauty, willingness to appease customers, and openness to sexual experimentation. Once experienced sex workers like Savitri became aware of the peculiarities of local sex markets, they tapped into relatively high earnings, despite their age, by entering into apparently unfavorable contracts.

To get a sense of the problems traveling sex workers faced, I accompanied Meera to interview Maramma, a Tirupati-based sex worker in her forties who had done sex work for fifteen years and had routinely traveled for sex work. Maramma's main worry was harassment by local rowdies. Once while returning from a sex work contract at a Chennai lodge, a rowdy demanded money for alcohol and sexual favors from her. When she refused, he drew out his knife and threatened violence. Maramma then approached Chandra, a beat constable, who, refusing to be bribed by the rowdy, arrested him. Despite her family's reluctance to let Maramma testify in court against him in the absence of witness protection, she testified, and the rowdy spent a year in prison. Maramma felt that experienced sex workers could resist rowdies more easily than recent entrants. Yet even experienced sex workers had little control over situations where owners did not keep up their side of the bargain. In 2009 Savitri recounted her experience with a house-based owner, who after a police raid did not pay her nearly 25,000 rupees for two months of sex work on contract. Savitri attributed it to her bad luck rather than a contractual problem whose resolution ought to be pursued, even if only informally. Based on accounts provided by Savitri and Maramma, from the sex worker's point of view, per transaction and nonremunerative contracts involve minimal investment, high profit, and low to moderate legal risk.

#### Hotel-Based Sex Work

I base my discussion of hotel-based sex work in Tirupati on journalistic accounts of hotel-based sex work in other South Indian cities like Hyderabad and Chennai and my interviews with sex workers, police officers, and the owner of a three-star hotel in Tirupati. Hotel-based sex work forms a miniscule part of metropolitan sex markets. In Chennai, only about 1.4 percent of the sex workers in a survey worked in hotels (Mujtaba 2003). In Tirupati, hotel-based sex work took place both in private-sector three-star hotels (colloquially referred to as star hotels) and TTD cottages in Tirumala. Stakeholders in hotel-based sex work include hotel owners and their employees, customers, brokers, and the police. Rowdy harassment is rare. Hotel owners typically have no functional role in sex work.<sup>12</sup> Yet since the ITPA covers commercial establishments, many hotels have an explicit policy of not renting out rooms to unmarried couples. However, given the excess capacity in Tirupati's hotel industry, along with the

reluctance of the police to enforce anti-sex work laws against hotels, hotel owners have increasingly relaxed these rules.<sup>13</sup> In response, some owners have unsuccessfully proposed that the 130-member Tirupati Hotel Association deny membership to hotels raided for permitting sex work.

Customers generally include figures in the film industry, professionals like software engineers, and sons of politicians and high-ranking policemen who rent rooms overnight or for twelve-hour periods (originally geared toward pilgrims) for sex work transactions.<sup>14</sup> They bring sex workers from other cities or solicit local sex workers through hotel employees like bellboys, who contact a broker on the customer's behalf. The broker escorts sex workers to the hotel and is paid a 30 percent commission. Hotel-based sex workers in Tirupati are typically female students at the local university and colleges, but could also include sex workers with the requisite bodily capital and connections with the local broker. The high costs of hiring a sex worker for an overnight transaction means that a customer is tempted to split the costs with a male friend, which explains why sex workers often arrive at hotel rooms to find more than one customer. Based on the limited available information, from the sex workers' point of view, hotel-based sex work involves low investment, moderate to high profit, and low to moderate legal risk.

#### ■ Internal and External Stakeholders in Tirupati's Sex Market: An Elaboration

In an Action Aid study, sex workers expressed their view of the internal and external stakeholders in AP's sex industry. They likened brokers to foxes and lions, the police to snakes, customers to milk cows, rowdies to tigers, and vendors to monkeys who passed on information from one person to another (Action Aid Andhra Pradesh 2002b, 9–10). I will elaborate here on the role of the broker, the police, and the TTD. The role of WINS in the sex worker community will emerge when I describe the enforcement of anti-sex work laws in Tirupati. Little is known about Tirupati's rowdies, although both sex workers and brokers complained about them. In some instances, lodge owners protected sex workers from rowdies but were not always successful as in nearby Nagari, where rowdies retaliated by filing false complaints under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. In Tirupati they appear to extort regular payments from Tirupati's shopkeepers, who knowingly encroached upon municipal land (*The Hindu* 2002).

##### Internal Stakeholders in Tirupati's Sex Market: The Role of the Broker

The one internal stakeholder who consistently appears in all institutional settings for sex work in Tirupati is the broker. His role as an intermediary is accentuated by the geographically dispersed character of sex work in the city and sex workers' mobility between institutional settings. That being said, newcomers in

lodge-based sex work rely more heavily on brokers than experienced sex workers who use them on an ad hoc basis. I illustrate the broker's varied roles based on my interview of Tirupati Sekhar, a broker who claimed to have a national reputation.

Tirupati Sekhar lived in the slum section of STV Nagar, where small mud houses with thatched roofs stood near open gutters filled with stagnant water. In a by-lane of this area was Sekhar's home—a few rooms constructed with bricks and concrete that he shared with his wife, her sister, and one sex worker. On the afternoon that I visited him with Nitya, a WINS peer educator, he was sleeping on a makeshift bed in a thatched shed adjoining these rooms. Sekhar was a short, fat, dark man, in his midforties, wearing an orange shirt with missing buttons and a *lungi* (narrow full-length cotton skirt). He had a shaven head and his left ear was missing a small part. As he turned to spit out the betel leaves he was chewing on, I noticed scars on the back on his neck and left hand. Sekhar, originally from Avadi in neighboring Tamil Nadu, left home at the age of eleven and came to Tirupati, where he did several odd jobs at the bus station before working with a broker or *mama* in 1973.<sup>15</sup> Although Sekhar methodically evaded my questions, it was clear that he played multiple roles in the sex industry, including as a trafficker, broker, tout, and brothel keeper. By Sekhar's own admission, his business was flourishing, as he bragged about the eight cell phones he owned.

As a *trafficker*, Tirupati Sekhar said he once took two women to a brothel owner in the Mehndi red-light area of Hyderabad, the state's capital, for which both the women and brothel owner paid him 1,000 rupees each. A subsequent raid of the red-light area led to his arrest, but despite being charged for several offenses, he served a three-month prison sentence for kidnapping. Sekhar claimed to spend at least 100,000 rupees defending each prosecution under the ITPA and the IPC. He did not distinguish between trafficking teenage girls and brokering for adult sex workers, for if girls could be in voluntary sexual relationships before eighteen, why not allow them to sell sex, he asked. His commission for trafficking ranged from a few hundred rupees to more than 10,000 rupees, depending on the age and beauty of the victim. Nitya said he did not drug women to traffic them. As a *brothel keeper*, Sekhar maintained two or three sex workers at his house whom he did not force into sex work, a fact that Nitya later confirmed. Sekhar seemed to have a reputation among sex workers for being fair and just, and for maintaining women in difficult economic circumstances until they chose a type of sex work that he could arrange.

As a *broker*, Tirupati Sekhar would ferry sex workers on contract between Tirupati and other South Indian cities. Revathi, a traveling sex worker who used Kadiri as a base to travel with brokers all over AP, confirms that this is common for brokers (Action Aid India and WINS 2004, 55). Tirupati Sekhar also accompanied sex workers to hotels and lodges, and picked them up in the morning if they stayed overnight. He would not disclose his commission for this. As for sex workers, police and rowdy harassment were Sekhar's biggest problem. He recounted how two years ago, he was attacked by four rowdies when traveling on his motorbike in retaliation for refusing to allow them sexual

favors from his sex workers. They broke his head and chopped off a part of his ear, landing him in the hospital for a month. Ever since, he carries a sickle under the seat of his motorbike, which he showed us. Tirupati Sekhar refused to say if he paid protection money to the local police. But when he became a fishmonger a few years ago, he says policemen joked about whether he had really quit being a broker and gave him such a thrashing at the police station that he claims to have returned to being a broker.

#### External Stakeholders: The Police

Ethnographers of the state have demonstrated how the state's authority over its subjects in so-called "local" spaces is produced and sustained through routine bureaucratic practices that spatialize it in terms of verticality and encompassment (Ferguson and Gupta 2002). I found such aspects of police power operational in the enforcement of anti-sex work laws in Tirupati and briefly delineate here some aspects of Tirupati's police bureaucracy and its disposition toward sex work. A more detailed account of enforcement practices follows later in this chapter. At the lower end of the police force in Tirupati are the "blue colt" police who travel on two-wheeler vehicles to handle road emergencies (Andhra Pradesh Police website). Then there is the local constabulary, which builds familiarity with sex workers over time. Although Tirupati has a female head constable and several female constables,<sup>16</sup> policewomen's status in the force is low.<sup>17</sup> Police and sex workers engage with each other as repeat players, a fact amply demonstrated in the autobiography of Nalini Jameela, a sex worker from Kerala. She describes her experience of policemen as customers and law enforcement personnel thus:

Now, in Puthukad station there was a policeman notorious for his violence—an [*sic*] bad-tempered fellow. I became a bit worried—would I be beaten up too? But after the first experience of being beaten up, I had taken care to see that a few policemen were my clients . . . And you may not know, power in the police station doesn't begin with the Circle Inspector and Sub-Inspector and end in the lower-end policemen. It's much more complicated than that. There are many lower-level policemen who have a special kind of influence on the higher-ups. I knew that, and was careful to keep such men on my side. Now, one of my clients worked in this police station, and so I turned to him. Don't worry, he said, you won't be harmed, I have dropped a word with the Circle Inspector already. The other ill-tempered policeman, who'd been itching to pulverize me, was of course disappointed! I can still see him, mad with anger, gnashing his teeth, stamping around, like a brute of a dog straining at his leash! (Jameela 2007, 138)

This strategic befriending of the police appears widespread. Hence, there was a saying among sex workers in colonial Kolkata: "If you want to eat fish,

choose hilsa. If you want to take a lover, choose a policeman!” (Banerjee 2000, 109). Above the constabulary is the subinspector, the inspector of a police station, the circle inspector who oversees a few police stations, the assistant superintendent of police, the DSP in Tirupati, and the superintendent of police in Chittoor. These officers are native to AP and despite routine transfers are likely to return to a city more than once during their career, and are thus familiar with its sex market. As Jameela notes, the “older police fellows” knew her as an old hand, unlike the newer policemen (2007, 70). These officers are critical to the enforcement of the ITPA because only designated special police officers (SPOs) at least at the rank of an inspector and above can arrest suspected offenders under it. An officer below the rank of inspector can arrest without a warrant only upon the direction of the SPO, unless he or she is a subinspector, in which case he can do so by satisfying certain procedural requirements.<sup>18</sup> This, however, did not stop the blue colt police and constables from threatening sex workers with arrest under the ITPA.

Not only do police officers exercise considerable discretion in enforcing anti-sex work laws, when they do enforce the law, their disposition toward the sale of sex determines their demeanor toward sex workers. Some policemen were respectful, while others had a strong desire to rehabilitate sex workers and even handed out money instead of arresting them. Yet others harbored a deep-seated hatred, which, irrespective of their rank in the force, manifest itself in the physical abuse and public humiliation of sex workers. Female officers were no exception, with one female subinspector threatening to strip disruptive sex workers naked and parade them in town, invoking a time-tested terror tactic used by high-caste men to sexually violate *dalit* women.<sup>19</sup> Yet others displayed a voyeuristic interest in sex workers’ lives. Most others found it incomprehensible that a woman would want to do sex work, wondering why she could not find a decent job. At the same time, they were skeptical of WINS’ peer educators’ claims that they had in fact quit sex work. In other words, was sex work really “sexual exploitation or abuse,” or simply a way of making easy money? Thus, the ambivalence reflected in successive definitions of prostitution in the ITPA encompassing promiscuous sexual intercourse and sexual exploitation does not reside merely in the statute but also in the hearts and minds of those who enforce the law.

Corruption in India cuts across all levels of the police force and Tirupati is no exception. Here, corruption is embedded within a pervasive culture of hospitality on demand, which the city’s businessmen view as a cost of doing business in the city. To illustrate, each hotel is expected to contribute two free rooms to policemen on protocol duty accompanying dignitaries visiting Tirumala. Consequently, the local police expect free rooms and food from hotel and lodge owners and are brought to task only when they demand monetary bribes. In the context of sex work, however, all ranks of the police force demand sexual favors, while only the lower ranks rather than police officers extract routine monetary bribes.

### External Stakeholders: The TTD

Earlier I mentioned the impact of TTD's developmental activities on the region as a whole. But in relation to sex workers, the TTD's attitude has been less than satisfactory. The executive officer of TTD once reportedly told WINS that "AIDS is not on the agenda of the Lord." Sex workers are thus far from likely to be the beneficiaries of the TTD's charitable agenda, which is geared toward conventional programs for the poor, disabled, lepers, and orphans. The TTD has even been known to spend 5 million rupees on more specious projects, like rituals to invoke the rain gods against drought in Chittoor district (Radhakrishna 2004). Yet, when I drew the attention of a TTD land acquisitions officer to those sex workers in Tirupati who were homeless, HIV positive, and suffering from substance abuse, despite the TTD's awesome wealth, she responded with hostility toward the city's insatiable and ungrateful residents. In her view, the Lord had no need for Tirupati or its citizens; neither did the TTD. If anything, it was only because of the temple that a beggar in Tirupati could earn 100 rupees a day. Tirupati's sex workers were perhaps to be grateful for the pilgrim tourist economy. State bureaucrats thus ventriloquized the divine will when they justified the TTD's distributional choices, whether in the latter's morally conservative denial that AIDS was something worth worrying about or in the pragmatic view of charity, where beggars and sex workers benefited from the temple economy.<sup>20</sup>

### ■ Tirupati as a Residual Sex Market

Tirupati, I argue, has a residual sex market, setting it apart from sex work in the brothel-based red-light areas of metropolitan Indian cities. Although the differences between Tirupati and Sonagachi in this respect become clearer by chapter 5, here I highlight some of the features of Tirupati's residual sex market, particularly its significant implications for women's entry into sex work and conditions within the sex industry. Several of these aspects could be attributed to the distinct political economy of sex work in Southern India.

### ■ Modes of Entry into Sex Work and Trafficking

To begin with, cities like Tirupati are not major destinations for trafficked sex workers despite AP's reputation as a major source area for trafficked sex workers, who can constitute between 25 and 80 percent of the sex worker population in other states (Action Aid Andhra Pradesh 2002a, 10; Indian Community Welfare Organization 2002, 12) and extensive trafficking within the state itself (Sen and Nair 2004, 150). Within Tirupati itself, far fewer sex workers are deceived or sold into sex work than is typical in, say, Sonagachi. WINS found that



3 percent of surveyed sex workers in Tirupati had been deceived into sex work, while 1 percent entered it based on tradition (Women's Initiatives 2000, 1). The rest had entered sex work under force of circumstance, including desertion, divorce, husband's death, or economic failure in the family (*ibid.*). I have already employed Joardar's taxonomy of major predisposing factors and contributory factors to illustrate the choice-coercion spectrum that determined street-based women's entry into sex work. In legal terms, however, given that Section 5 of the ITPA punishes anyone who procures a person *with or without* her consent for the purpose of prostitution, the ubiquitous female "friend" who introduces a woman to sex work is a procurer. Accordingly, all the sex workers that I met in Tirupati were "trafficked" under the ITPA, as well as under the expansive definition of trafficking under Article 3 of the UN Protocol.

### ■ Varied Institutional Settings for Sex Work

Sex work in Tirupati takes place in multiple institutional settings with varied modes of organization as presented in table 1. Other residual sex markets in AP are similarly organized, as illustrated by a 2007 survey of sex work in Rajahmundry in coastal AP; family-based customary sex work was the only additional institutional setting for sex work. The institutional settings of the street, household, and hospitality industry determine the range of stakeholders, while the mode of organization of sex work determines sex workers' capacity for bargaining with internal and external stakeholders. To the extent that Tirupati's sex market has not given rise to an institutional setting unique to the sex industry, such as the brothel, which I detail in the next chapter, it helps displace the centrality of the brothel in the popular and academic imagination of sex work in the third world.

To begin with, unlike in brothel-based sex work, all institutional settings for sex work in Tirupati are primarily nonresidential except for temporary residence in lodges when doing sex work on contract or as bonded labor in lodges (which is relatively uncommon). Therefore, there are always aspects of sex workers' lives that are distinct from their sex work. This hardly implies that the functional or psychological aspects of sex work in nonresidential settings or its public perception differs from that in brothel-based sex work. A happily married secret sex worker doing ad hoc sex work may not feel any less like a "prostitute" than a brothel-based sex worker. If anything, she is more likely to acutely experience the indignity of sex work and the pressures of straddling her work and marriage. Nevertheless, the experience of Tirupati's sex workers is different in that in brothel-based sex work in a metropolitan city, a sex worker's mode of entry into sex work, her socialization, her place within the brothel's division of labor, and the brothel's place within the red-light area's economy implies some isolation from actors outside the red-light area. For Tirupati's sex workers, on the other hand, the nonresidential nature of most sex work means



**Table 1. Stakeholders in the Institutional Settings of Tirupati's Sex Market**

Institutional setting	Mode of organization of sex work	Internal stakeholders	External stakeholders	Level of investment	Income level	Level of legal risk
Street–highway	Independent	Customers	Highway police	Minimal*	Low*	Low*
Street–railway station	Independent	Customers	Police, railway police, railway employees, players in formal/informal economy, bystanders	Minimal*	Low*	Moderate*
Street–bus station and group theaters	Independent	Customers, sex worker as occasional tout	Police, rowdies, players in formal/informal economy, bystanders	Minimal*	High*	Moderate to high*
Household	Contractor	Landlord (if any), owner-operator, broker, customers	Police	Minimal**	High**	Moderate to high**
Household	Independent	Landlord, broker, customers	Police	Minimal*	High*	Moderate*
Hospitality–lodge	Bonded labor	Trafficker, lodge owner, owner of sex business, broker, customers	Police, rowdies	Low**	High**	Moderate to high**
Hospitality–lodge	Employee	Lodge owner, owner of sex business, broker, customers	Police	Low**	Moderate**	Low**
Hospitality–lodge	Contractor–fixed income contract	Lodge owner, owner of sex business, broker, customers	Police	High**	High**	Moderate to high**
Hospitality–lodge	Contractor–per transaction and nonremunerative contracts	Lodge owner, owner of sex business, customers	Police, rowdies	Minimal**	High**	Low to moderate**
Hospitality–hotel	Independent	Hotel owner, hotel employees,	Police	Low*	Moderate to high*	Low to moderate*

\* Fr

\*\* From the point of view of the owner of the sex business

that despite stigma and discrimination, they are a part of the social fabric and have relationships with social actors outside sex work. In one study, roughly two-thirds of the surveyed sex workers participated in social activities, such as attending weddings, festival celebrations, meetings, and places of worship (International HIV/AIDS Alliance 2006, 16). In Chittoor, sex workers were close to bus and rickshaw drivers and shopkeepers, and while some of them may have been customers, others silently empathized with sex workers' life circumstances. This did not mean complete community tolerance, for when a new sex worker dressed in male attire lied about being a teacher, shopkeepers in the neighborhood asked WINS to intervene, with bus drivers keeping an eye on her travel patterns. Still, when sex workers were asked who they felt they could count on in case of a work-related or personal problem, a third of the surveyed sex workers in a study had a count-on score of 3.5 and above on a scale of 1–5, with 5 indicating the most support, while 41 percent scored between 2.51 and 3.5 (*ibid.*, 17). Similarly, almost 76 percent of these sex workers registered a life skills score (which is indicative of a sex worker's sense of control over her life and work) of 2.51 and above (*ibid.*, 18). As for violence from customers, it was negligible across all institutional settings; 82.4 percent of street-based sex workers, 91.7 percent of family-based sex workers, and 89.2 percent of house-based sex workers had never been abused by a customer (*ibid.*, 14).

The modes of organization of sex work in residual sex markets like Tirupati also suggest a high percentage of self-employed sex workers. In Tirupati itself, most street-based sex workers are self-employed, as are several house-based and lodge-based sex workers. In the Rajahmundry study, 83.7 percent of the surveyed sex workers were paid directly by customers, suggesting that they predominantly did own-account sex work irrespective of the institutional setting (Project Parivartan 2007, 9). The percentage of independent sex workers was 89–93 percent for street-based sex workers, 82.8 percent for family-based sex workers, 74.7 percent for lodge-based sex workers, and 36.6 percent for house-based sex workers (*ibid.*). Of the sex workers who did not get paid directly, house-based sex workers were more likely to get less than 50 percent of the money, while family, street, and lodge-based sex workers often got 75 percent of the money (*ibid.*).

#### Lack of Functional Division of Labor

The primarily nonresidential nature of sex work in Tirupati explains its lack of a functional division of labor. Sex work in Sonagachi's brothels, as I will show in chapter 5, involves a relatively specific, if not specialized, functional division of labor. Depending on the scale of the sex business, a brothel may hire pimps, domestic workers, or a managerial class. In contrast, in Tirupati, there is so little functional division of labor that it is at times impossible to identify the exact role of an internal stakeholder. To illustrate, Tirupati Sekhar traffics women to Hyderabad's brothels, runs a house-based sex business in his slum shack, touts

for customers in hotels, and accompanies lodge-based sex workers on contract as a broker. Similarly, an owner operator in house-based sex work is the landlady, owner of the sex business, and often the sex worker herself.

### Segmentation and Mobility in the Sex Market

Market segmentation, a feature of complex sex markets, is often expressed in terms of sex workers' age, community, looks, and sexual services. Customers and sex workers will develop a shared understanding of such segmentation, particularly in red-light areas with spatially concentrated brothels. In Tirupati's spatially and institutionally dispersed sex market, on the other hand, such segmentation is not discernable, nor do sex workers perceive it as such. As in most sex markets, in Tirupati a sex worker with personality, bodily capital, and resources could find upward mobility. She either moves toward less risky and/or more remunerative institutional settings or modes of organization of sex work. Thus, a sex worker may move from street-based sex work to house-based sex work; or from house-based sex work as a contractor to working on her own; or from being a sexual laborer to the manager of a sex business. Similarly, downward mobility is common as sex workers age and end up in street-based sex work on the highway, having started out in a relatively high-income institutional setting such as the lodge. In addition, in Tirupati there was lateral mobility. First, not all sex workers did sex work all the time, nor they did earn their livelihood solely from sex work. Except in bonded sex work in a lodge setting, most sex workers worked in the informal economy in ragpicking, construction, and domestic work, or selling cooked food, saris, and produce. In a survey of 6,648 AP sex workers, 46.7 percent were involved in work other than sex work (Dandona et al. 2005a), a majority working as laborers (International HIV/AIDS Alliance 2006, 14). In a 2007 survey of sex workers in Rajahmundry in coastal AP, 43 percent of the sex workers also engaged in domestic work, nonagricultural labor, and agricultural labor (Project Parivartan 2007, 1, 5). Second, many sex workers did sex work simultaneously in multiple institutional settings. This was true for 13.6 percent of the sex workers in the Rajahmundry survey (ibid., 6), the most common combination being lodge/home, lodge/highway, and highway/agricultural fields. In Tirupati itself, some street-based sex workers entertained customers at home while others needing immediate cash could decide to work in a lodge on a fixed income contract. Still, this mobility was not unencumbered. A street-based sex worker could not aspire to hotel-based sex work, while a secret sex worker could do hotel-based sex work but not street-based sex work, even if it paid more; nor could she undertake a fixed income contract in a lodge, because it involved travel. However, to the extent that sex workers were not tied down by residential arrangements for sex work, they had relatively more lateral mobility.

Finally, residual sex markets like Tirupati are in constant interaction with the local sex markets of neighboring towns and cities due to the *physical mobility*

and *extensive travel* undertaken by sex workers. In fact, 70 percent of sex workers in a WINS survey had moved places at least once (Women's Initiatives 2000, 9) and activists at PASS cited their mobility as an impediment to their HIV prevention efforts. Sex workers traveling on contract already maintained anonymity in a stigmatized occupation, minimized the risk of arrest, and ensured novelty for customers. They also earned relatively more, especially in markets with a low supply of sexual labor and neutralized market lulls arising from low customer demand due to religious abstinence or police raids. Such movement by sex workers between institutional settings is common elsewhere in India. Bar dancers also work in conventional red-light areas, while highway sex workers work in red-light areas, pilgrim areas during festivals, and in cities when conventions are held (National Commission for Women 2002, 188). Sex worker travel possibly followed travel by customers like sales representatives, industrialists, and traders, and the demand they generated in local sex markets. Regional considerations figured into sex workers' own locational preferences for sex work, especially given the tremendous regional variations in the industry in AP. For instance, in Telangana, the state's most backward region, most sex workers were highway-based and earned the least, while sex workers in coastal Andhra were wealthy, earned in lakhs,<sup>21</sup> owned property, and were patronized by wealthy and politically influential customers (AWARE 1997, 29). Sex workers were wary of sex work in big out-of-state cities like Mumbai because despite higher earnings, they foresaw a greater cost of living, risk of disease, and abuse from internal and external stakeholders (*ibid.*, 32–33). Moreover, lodge owners in AP, they reasoned, took only half their income, whereas brothel keepers in Mumbai, Delhi, and Pune kept all of it (*ibid.*, 55). Others, however, preferred city brothels, because brothel keepers there were more professional than lodge owners in AP (*ibid.*).

Related to the social embeddedness of sex workers in Tirupati is their relationship with state agencies. Policy makers and feminists often assume that sex workers are magnificently distant from state institutions so that, if only this distance could be bridged, sex workers could be rescued and be better off. Yet several incidents in Tirupati problematized this assumption. Needless to say, access to state institutions was far from smooth, and sex workers were routinely ridiculed by state officials when they demanded basic identity documents (Action Aid India and WINS 2004, 34) or benefits under schemes like the Widow Relief Fund (*ibid.*, 62). Yet there were several instances where sex workers effectively leveraged state programs to supplement their primary income from sex work. A *matamma* or traditional sex worker set up a flower shop in Chittoor using a loan under a state rehabilitation scheme. In Tirupati, at least two sex workers I met benefited from land allocations to scheduled caste families. A young HIV-positive street-based sex worker demanded to know why the AP government would not allot housing sites to sex workers, unlike in neighboring Karnataka (*ibid.*, 8). Some sex workers admitted their children to government schools under caste-based quotas and to private hostels where parents were

paid to school their children under the National Child Labor Project. Others successfully obtained voter identity cards, accessed the public distribution system for essential commodities, and participated in self-help groups under the Development of Women and Children in Rural Areas scheme, a statewide antipoverty program. In Rajahmundry, the police and the district collector actively supported collective initiatives by sex workers. One could argue that the awareness of state programs had less to do with the sex industry than with the presence of NGOs like WINS, which act as a bridge between sex workers and the state. The influence of NGOs is thus undeniable. Still, if resistance from the sex industry to outside intervention such as an NGO is a proxy for the stakes involved and the public spaces available to sex workers, then the pedestrian nature of the resistance that WINS and PASS face suggests that institutional diversity augurs marginally better for sex workers. Compare this with the violence faced by DMSC leaders in red-light areas, given the institutional monopoly of the brothel.

### ■ Regulating Sex Work: The Structural Bias Thesis Stated

As discussed in chapters 2 and 3, feminists have for long recognized the role of criminal law in shaping sex markets. I assess here the role of the ITPA and its enforcement in Tirupati's sex market. I refer to the predominant view of its enforcement as the structural bias thesis. Although my discussion of the thesis and its critique are located in the Indian context, they are highly likely to bear resonance in other national settings. Simply put, the *structural bias* thesis views the ITPA as suffering from a range of biases, which, when enforced, are exacerbated, ultimately leading to discrimination against sex workers. The ITPA, the argument goes, suffers from a *substantive bias* because it criminalizes sex workers who are, in effect, victims of capitalist, patriarchal economies. Why else would Section 8 of the ITPA, which criminalizes soliciting, provide for a higher penalty for women (who form the majority of sex workers) than men (who form the majority of customers)? As MacKinnon notes, "criminal prostitution laws make women into criminals for being victimized as women, so are arguably arbitrary in the first place" (1993, 15). A *bad faith bias* operates when corrupt police officers collude with politicians and brothel keepers to desist from enforcing the law against the latter (Sen and Nair 2004, 19). In some red-light areas, the police give brothel owners advance notice of a raid, enabling sex workers to be hidden before the police arrive (ibid., 79; Sleightholme and Sinha 1996, 62). Joardar reports that soon after the passage of the predecessor statute to the ITPA in 1956, the police advised brothel keepers to place a tablet on their door like householders in the vicinity of a red-light area with the Bengali words "householder; entry prohibited," suggesting that sex workers dress like married women to escape arrest (1984, 267). Brothel keepers are also known to bribe the police (Dell 1999, 255), especially when minor sex workers are involved. When

minors first arrive in a red-light area, a false criminal proceeding is initiated to facilitate their registration in police records as adults (Project Parivartan 2006, 4 citing Debabrata R.; Sleightholme and Sinha 1996, 46), preventing the future use of stringent provisions of the ITPA on the trafficking and prostitution of children. The prosecution of traffickers under the ITPA is also minimal (Sen and Nair 2004, 199).

*Procedural bias* means that investigations are improperly conducted and charge sheets poorly and incorrectly framed. Gathering sufficient proof for convictions is difficult (D'Cunha 1991), producing a time lag between filing a case and the final conviction. There is little coordination between the prosecution and judiciary (Das 2008). The bailable nature of the trafficking offense allows the accused to flee or engage in delaying tactics to avoid trial (Blackwill 2003). Since repeat offenders face increased penalties under the ITPA, sex workers are made to give different names to the police (Sen and Nair 2004, 79). In the case of offenses against minors, it is difficult to ascertain the victim's age, and stakeholders remain highly motivated to distort the process even further (ibid., 207), the cumulative result being that in one Indian state, only one of the 125 cases filed during the past six years resulted in conviction.

At the *operational level*, the sexist local police machinery uses the ITPA to overwhelmingly target sex workers. Of the 65,602 people arrested between 1997 and 2001, 87 percent were females (Sen and Nair 2004). Also, 90 percent of those arrested, mainly under Section 8 of the ITPA, and 90 percent of those convicted were women (ibid.).<sup>22</sup> The number of females arrested under the ITPA is roughly four times that of males (Government of India 1998). Jean D'Cunha confirmed this trend for Mumbai under the predecessor statute to the ITPA (1991). A more recent study showed that 66 percent of the cases against sex workers in Kamathipura, Mumbai, and 56 percent of the cases in G. B. Road, New Delhi, were registered under Section 8 of the ITPA, with a 90 percent conviction rate against sex workers (Lawyers Collective 2003). Convicted sex workers end up doing more sex work to pay off penalties imposed under the ITPA (Sen and Nair 2004, 78). The police rarely use the law against brothel keepers, traffickers, and customers (ibid., 199), with even judges admitting that they never invoke the ITPA against customers (ibid., 200). As MacKinnon notes of such bias, "compared with customers, prostitutes also more often fail to satisfy the gender-neutral conditions of release: good money, good name, good job, good family, good record, good lawyer, good three-piece suit" (1993, 19). Finally, even benevolent provisions of the ITPA relating to rehabilitation produce *perverse results*. Sex workers end up in subhuman conditions in state facilities (Sleightholme and Sinha 1996, 133) where they are physically and sexually abused, receive no job-training skills, and are forced to return to sex work. This has led to public interest litigation in the past. Employees of government-run homes have even posed as mothers of young inmates to obtain their custody and sell them into sex work after their release (ibid., 43).

Even where the ITPA is not enforced, the criminal status of sex work fundamentally skews the bargaining potential of internal stakeholders across relational dynamics. For example, sex workers cannot enforce contracts against brothel keepers, landlords, or customers due to their illegality under the ITPA. Further, the ITPA produces a ripple effect on a range of social interactions. For example, until recently, sex workers had to borrow money from brothel keepers and moneylenders because banks required identity documents and proof of residence, which were impossible to obtain due to the illegal nature of sex work.<sup>23</sup> Apart from the spiraling effect of the ITPA on individual sex workers, the criminalization of sex work also adversely impacts their collective associational life, evidenced by the DMSC's difficulty in registering itself and its affiliates as nonprofit organizations.

Despite the fractious and polarized normative and policy debates on sex work, the structural bias thesis finds support on all sides. Opponents of the decriminalization and legalization of sex work use the structural bias thesis to reiterate the need for a robust anti-sex work criminal law, provided its biases against sex workers are excoriated (Sen and Nair 2004; Government of India 1998; Joshi 1997; D'Cunha 1991). Proponents of decriminalization and legalization, on the other hand, use the structural bias thesis to reiterate its social exclusionary effects on sex workers (Misra, Mahal, and Shah 2005). The state itself observes that the ITPA is a failure often revictimizing the victims of exploitation while the exploiters go scot-free (Government of India 1998, 44). I illustrate the relevance of the structural bias thesis in Tirupati through two incidents. I demonstrate the ITPA's procedural bias by detailing WINS' attempt to obtain bail for two sex workers arrested under the ITPA during my stay in Tirupati. The second incident typifies operational bias, where sex workers were unable to press charges against a rowdy customer who had raped a sex worker. Having demonstrated the relevance of the structural bias thesis, I then problematize its analytic.

### ■ The Structural Bias Thesis Validated; or, The Anatomy of a Bail Application

The ITPA is rarely invoked in Tirupati, making it difficult to gauge its impact. The incident I detail to illustrate its use occurred at a lodge in Chittoor, a neighboring city. Based on information from the local *panchayatdars* (office bearers of *panchayats*), the circle inspector, Vannur Saheb, obtained a house search warrant for Mayur Vihar lodge behind the Chittoor bus station. The police knocked on the doors to find eight women and men. The circle inspector inquired if they were blood relatives. When they answered no, the police searched them and the rooms, finding 1,200 rupees on their persons, the women having more money than the men. The police arrested the customers and sex workers



under Section 8 for soliciting and the two lease operators under Section 3 for running a brothel. All four sex workers were married, with the youngest being nineteen years old, according to the First Information Report (FIR). Two sex workers were from out of town, presumably in Chittoor on contract, while the other two were street-based sex workers from Chittoor district. All ten accused were produced before the judge and remanded to judicial custody.

Local WINS peer educators, themselves sex workers, approached the police for an FIR copy but were told that it was available only in English, despite its availability in Telugu, the local language. In a meeting, the subinspector of police told Meera and me that the police had for long warned sex workers not to create a public nuisance near the bus station, which he claimed went unheeded. Finally, after complaints from residents, the police felt compelled to act and proceeded to raid the lodge, even though sex workers were not creating a public nuisance then. Although he sympathized with the sex workers, the subinspector claimed to be only doing his duty. The circle inspector who conducted the raid was especially upset. He had seen one of the arrested sex workers, Suguna, working at the train station. Surprised that she would travel all the way from coastal AP to Chittoor for sex work, he had given her money for a ticket home, where he told her to look for another job. Imagine his shock when he came upon Suguna during the raid. He was now convinced that sex workers wanted easy money and were making excuses when they could find other work with some effort.

At the court complex, Meera and the peer educators decided that WINS should offer legal assistance to the two street-based sex workers since lodge operators would post bail for the other two. For the bail application, the court required a local surety, for which a ration card (a government-issued identity card for obtaining commodities at subsidized prices), a permanent account number (PAN) or income tax identification card, a voter registration card, and proof of solvency evidenced through payment of property taxes were essential. The property had to be worth at least the amount of the two sureties, that is, 10,000 rupees. WINS was unable to meet these requirements and hence could not provide local surety for the bail applications. However, the AP high court circular had a clause permitting provision of cash in lieu of surety at the court's discretion, which neither of us was aware of early in the day. Even on this fairly straightforward issue the law was, however, unclear. In the heyday of judicial activism in the 1980s, Supreme Court Justice V. R. Krishna Iyer had commented on the folly of requiring local surety from a criminal defendant when apprehended far from home, ruling instead that a personal bond would suffice for a bail application. Despite this ruling, the AP high court circular set forth additional requirements and, according to a senior defense lawyer, an AP high court decision even disallowed the deposit of cash in lieu of surety. The limits of our legal awareness and the ambiguity of the law notwithstanding, WINS proceeded to apply for bail under the ITPA.

The Chittoor court complex itself was a highly gendered space. At most, there were twenty female lawyers, their sex overshadowed by their professional



and class status, made evident by their lawyers' coats and gowns. Everyone else in the court complex, including lawyers, clients, policemen, and service providers, were male. Women in this male space attracted considerable attention. Men either stared or rapidly congregated to watch a group of women like us. Amid the attention we were attracting, we tried to locate sureties. In what appeared to be a flourishing local market for sureties, every lawyer we met suggested that we purchase one for a few thousand rupees. They even cost less earlier in the day. Approaching a court constable for help was futile. He ridiculed a peer educator with a ration card and PAN when she offered to act as surety, instead introducing us to his lawyer friend, who insisted we purchase sureties. When the peer educators declined, he warned us that the way we were going, the arrested sex workers would spend three months in a government home.

The peer educators finally located a trustworthy lawyer who had previously helped them, but he also offered sureties for hire. While the peer educators went off to sign engagement papers at his office, Meera and I tried unsuccessfully to meet the additional district magistrate to convince him to allow WINS to provide surety like his counterpart had in Tirupati. Instead, the head court clerk sent us on our way, sarcastically suggesting that we could always get the AP high court circular amended by the state legislature in Hyderabad if we disliked it. Ultimately, we met the additional public prosecutor, who informed us for the first time that WINS could indeed deposit cash at the court's discretion. Every other lawyer that day had missed mentioning this possibility.

Meanwhile, a lawyer friend referred us to a criminal defense lawyer in Chittoor who was willing to take the case *pro bono*. But being a prominent high-caste lawyer, he was uncomfortable dealing with sex workers. Earlier in the day, he had had a fit of fury when I directed the coffee he ordered from the court canteen for us to family members of an arrested sex worker. Later, in his office, he berated the peer educators for not having an honest livelihood and wasting middle-class women's time. As he looked us in the eye to ask if the sex workers were innocent, all we could confirm was that they had not solicited sex work at the time of arrest. Later that evening, we tried to disengage the lawyer selected by the peer educators. Becoming belligerent, he visited their homes the next morning. He then revealed that he had procured the signatures of the arrested sex workers on blank paper when they were first produced in court, leaving us no choice but to employ him, as the sex workers could not afford his steep fees. We thus ended our day in court. The trial of the four sex workers concluded twelve months after their arrest in July 2005 with their acquittal for want of independent witnesses. One customer was a government employee who faced the prospect of losing his job. WINS was refunded the surety amount fourteen months after the incident. Meanwhile, the defense lawyer continues to harass one of the peer educators for sexual favors, having obtained her home address from the attorney engagement papers.

The incident above is exceptional. Hence, even a repeat player like WINS was caught unawares when the ITPA was used. As in many parts of India,

Section 294 of the IPC is used most often to arrest sex workers in Tirupati.<sup>24</sup> As a result, the procedural bias of the ITPA is much reduced. Similarly, due to Tirupati's relatively unorganized sex market, the bad faith bias is almost non-existent. Also, interviews with sex workers revealed only one instance: that of a sex worker in neighboring Tamil Nadu being sent to a remand home. There she was so thoroughly physically and sexually abused that despite spousal pressure to continue sex work, she turned to selling fruit. Despite the relatively limited use of the ITPA, its ambiguity, coupled with the constant threat of its invocation, renders it extremely powerful even when not in use. I illustrate this through an incident where sex workers unsuccessfully tried to invoke criminal law against rape.

### ■ The ITPA as Background Rules; or, The Structural Bias Thesis Reinforced

The ITPA is a set of background rules hard at work even when not explicitly invoked. The threat of arrest under the ITPA is always present, and the memory of its consequences for individual stakeholders and the sex market constantly affects their behavior, whether engaged in sex work or not. The statute sends out a strong normative signal that sex work is a socially undesirable and harmful criminal activity, generating violence against sex workers from both internal and external stakeholders in the sex industry. As with violence against women generally, one might assume that all violence against sex workers cannot be addressed, resulting in what Duncan Kennedy usefully terms the "tolerated residuum." Kennedy argues that where the legal system tolerates a certain level of abuse, which is attributable to contestable social decisions about what abuse is and how important it is to prevent it, that this in turn affects practices of abuse and social practices of both men and women, irrespective of whether they themselves are abusers or victims (1993, 137). He claims that "partial prevention and partial toleration create a particular set of incentives for potential abusers and potential victims, and for everyone else in the society" (ibid., 138). In the case of sex work, however, far from addressing violence, the state exacerbates it, generating more violence itself. This was evident throughout my fieldwork, whether in Tirupati or Kolkata. Sex workers complained far less about customers than police harassment. Recollect their characterization of customers as milk cows but of the police as snakes. Although not all policemen were abusive by sex workers' own admission, and some were even their friends, most policemen engaged in some form of verbal, physical, or sexual harassment. They sometimes registered false cases against sex workers and trafficked in women. In a 1997 survey of 170 sex workers in AP, which excluded Chittoor district, 61.2 percent claimed to have been exploited by the police (AWARE 1997, 33). In a 2007 survey of sex workers in Rajahmundry, 20 percent said they had had sex with police officers to avoid trouble (Project Parivartan 2007, 1). It is not surprising, then, that

the state machinery actively prevents sex workers' use of the criminal justice system to tackle abuse, as evident in the incident I detail below.

In May 2004, unable to find a meeting place, a WINS peer educator organized a meeting of sex workers in a wooded area on the outskirts of Chittoor where they were less likely to attract public attention. Facing harassment from villagers in the area, the sex workers decided to return to Chittoor. As they boarded a bus back, a rowdy customer who had been stalking Menaka, one of the sex workers, pulled at her clothes and forced her to accompany him on his two-wheeler. He later raped her. The sex workers had not planned to complain against the disruptive villagers, but decided to teach the rowdy customer a lesson. When they tried to register a case of abduction against him, the Chittoor police claimed that sex workers should have approached them for a meeting space first instead of "inviting trouble." Meanwhile, some sex workers located Menaka, who had worked with a customer after the abduction and rape. The police eventually brought in the rowdy customer, who initially insisted that he had used a condom (indicating paid-for sex) with Menaka, but it turned out he hadn't. The angry sex workers did not hurt him for fear of retaliation but heeded the police's advice to file a complaint. Although they had never written a complaint by themselves before, they started writing, amid taunts from the "writer," a policeman who normally registers complaints.

Sex workers wanted to charge the customer with abduction, but the police insisted on an additional charge of rape. The sex workers were not confident of proving rape in court, but the police were willing to build a strong case on one condition—that Menaka stop doing sex work. Confused, the sex workers found this unacceptable. So they asked to withdraw their complaint altogether. Now the police threatened to book cases against them unless they did as told. It was already late in the evening, and the women worried that the next shift of constables would arrest and detain them overnight. Meera managed an assurance from the DSP that they would not be arrested and could return the following morning to file a complaint, yet even he insisted that they follow the police's instructions or leave. Intimidated, the sex workers decided not to pursue any charges. After all, Menaka was safe. Humiliated, they left the police station. The next day, the police told WINS that they had tried their best to assist the sex workers, but that they had refused to file a complaint.

Thus, sex workers' attempts to counter customer violence were thwarted when the police made the cessation of sex work a condition for police protection. In other words, sex workers through their very occupational choice were presumed to invite rape. When sex workers rejected such conditions for state protection, the seemingly sympathetic, even paternalistic police used every possible opportunity to terrorize sex workers by exposing their inability to write legalese, emphasizing their public humiliation if the rape trial failed, threatening arrest under the ITPA, and intimidating them to write a report on the police's terms. By tolerating the customer's rape of Menaka, the state emboldens customers and other bystanders to sexually violate sex workers while

actively dissuading attempts to mobilize the state machinery against abuse. It also reminds non-sex workers of their fate if they were to ever do sex work or to suggest they were sex workers. Thus, we find what Frug terms the terrorizing and maternalizing effects of anti-sex work criminal laws (1991–92, 1054–55). Given the ability of the state to generate abuse, to tolerate it both passively and actively, and extract a high price for protection by offering it only to women who give up sex work, feminist advocacy for increased criminalization is perplexing.

### ■ Enforcing Anti-Sex Work Laws in Tirupati's Sex Market

So far, I have demonstrated the validity of the structural bias thesis for Tirupati's sex market despite the limited, even rare use of the ITPA. I now turn more broadly to the criminal law tool kit available to the state against sex markets. The logic of the police enforcement of these criminal laws is driven by the distinction that the National Crime Records Bureau (NCRB) makes between cognizable crimes under the IPC and offenses under special and local laws (SLL),<sup>25</sup> of which the ITPA is an example. Nationally, the police book more offenses under SLL than the IPC, with the ratio of IPC to SLL crimes being 1:2.02 in 2001 and 1:1.172 in 2006 (National Crime Records Bureau 2006, Executive Summary, 2). This is attributable to the high national conviction rate for SLL crimes (84 percent) compared to IPC offenses (42.9 percent). This trend holds true for offenses booked under anti-sex work laws as well. Offenses booked under the ITPA nationally were 6,598 in 2002 and 4,541 in 2006, with intermediate figures for the intervening years (National Crime Records Bureau 2006, chapter 5). On the other hand, the cumulative numbers of offenses booked under the various IPC provisions dealing with prostitution did not exceed 427 under Section 366-B (importation of girls) between 2002 and 2006 (*ibid.*), 581 under Section 366-A (procurement of minor girls) between 2004 and 2006, 84 under Section 373 (buying of girls), and 192 under Section 372 (selling of girls) for the same time period (*ibid.*, chapter 6).

The relatively high use of the ITPA nationally when compared to the IPC is attributable to the preferences of enforcement agencies in certain states and cities for the ITPA. To illustrate, the state of Tamil Nadu alone accounted for 38.1 percent of the ITPA cases in 2006 and 47 percent in 2005. In 2006, the states of Tamil Nadu and Karnataka together accounted for 68 percent of the cases under the ITPA (National Crime Records Bureau 2005, Snapshots). In the state of AP, however, the ITPA is used less frequently. Cases registered under the ITPA statewide between 2003 and 2008 were 363 (2003), 275 (2004), 537 (2005), 464 (2006), 669 (2007), and 380 (2008) (State Crime Records Bureau, AP 2003, 101; 2005, 101, 104; 2006; 2007; 2008). Corresponding conviction rates were abysmally low, with three convictions in 2004, 37 in 2005, 19 in 2006, and 6 in 2007 (*ibid.*).

Despite the lower use of the ITPA in AP when compared to the rest of the country, the ITPA is nevertheless used more commonly than the IPC, with only forty-six offenses booked under all four relevant sections of the IPC put together in 2006. Yet within the state of AP itself, the ITPA is used disparately across different districts. In Chittoor district, for instance, the number of ITPA cases in any given year has typically not exceeded twenty cases. Cases registered for the years 2004, 2005, 2006, and 2007 were zero, three, nine, and twenty-three, respectively (State Crime Records Bureau, AP 2007, table 6.1; 2006, table 6.1).<sup>26</sup> The average use of the ITPA roughly once a month in the entire district explains once again the difficulty that WINS experienced when called upon to deal with the arrests of sex workers in the Chittoor lodge case.

Despite the greater use of SLL over the IPC in targeting sex markets, clarification is warranted. Data maintained both by the national and state crime records bureaus does not include offenses booked under SLL other than the ITPA, such as Section 110B of the Bombay Police Act, 1951, the Gujarat Prevention of Anti-Social Activities Act, 1985, and narcotic drug laws, which are used extensively to target sex markets. Similarly, the crime data is limited to offenses booked under the four sections of the IPC specifically targeting sex work, but not its obscenity and nuisance-related provisions. I will illustrate how both these omissions play out in the context of Tirupati's sex market. Indeed, due to these information gaps, we cannot measure the extent of abuse against sex workers generated by the state itself. One SLL that is routinely used in Tirupati against sex workers and likely to be used against sex work at railway stations elsewhere is the federal Railways Act, 1989 (the "Act").<sup>27</sup> Although I have no empirical data on the use of the Act in Tirupati against sex workers, its substantive provisions, as I will show, make them highly amenable to perpetrating all the biases of the ITPA.

The Act creates expansive zones of illegality on the railway station by criminalizing a range of activities that are backed by draconian sanctions like mandatory minimum fines. The Act endows three sets of stakeholders, namely, stakeholders in positions of authority, stakeholders in illegal working and living conditions, and bystander stakeholders, with vastly differential bargaining powers against each other. Three major offenses under the Act are (1) trespassing (Section 147), (2) begging or vending without a license (Section 144), and (3) committing nuisance or acts of obscenity (Section 145). Under Section 147, a person entering the station unlawfully, or who lawfully enters but misuses property or refuses to leave, is punishable with six months' imprisonment and/or a fine up to 1,000 rupees with a minimum mandatory fine of 500 rupees. Section 144 prohibits begging and vending without a license in any railway carriage or on the station, punishable by imprisonment up to one year and a fine of up to 2,000 rupees with a minimum mandatory fine of 1,000 rupees. Under both sections, an offender can be removed by a railway servant or anyone aiding him. Section 145 criminalizes a person in a railway carriage or the station who is intoxicated, commits nuisance or an act of indecency, or uses abusive or

obscene language, in which case she can be removed by a railway servant and can be imprisoned for six months or fined up to 500 rupees with a minimum mandatory fine of 100 rupees. With all three offenses, the offender can be arrested by a railway servant or police constable without warrant. This power to arrest is broader than under the ITPA where only a police officer of or above the rank of inspector can arrest without warrant. Moreover, a railway servant is defined expansively under Section 2(34) to include any government or private employee servicing the railways.

Given the zones of illegality created by the Act, homeless people, beggars, street children, and sex workers living and working at the railway station are likely to be in continuous violation of it, inviting further criminalization. Aspects of the sex work transaction, such as entry into an empty railway carriage or public toilets to do sex work, are punishable under the Act. The bargaining power of sex workers vis-à-vis stakeholders in positions of authority, particularly railway servants, is thus poor, although the station master may tolerate a certain level of illegal behavior. An ex-sex worker selling fruit at the railway station, for instance, found that the police were less likely to harass her when her younger daughter was with her. Yet, the railway police also demand sexual and monetary bribes from sex workers.

Bystander stakeholders such as repairmen, private contractors servicing trains in transit, or those working as janitors experience stakeholders living and working in illegality as a nuisance. Knowing local sex workers as repeat players, these stakeholders may issue a warning, threaten to report them to the authorities, or extract a monetary or sexual bribe from them. Stakeholders living and working illegally at the railway station relate in similar terms to powerful and bystander stakeholders as sex workers do. Their illegality induces vulnerability, leading them to form either relationships of solidarity vis-à-vis sex workers or become confrontational with them. To some extent this depends on the state's tolerance of illegality. Homeless people, mobile vendors, or beggars could be territorial about their living and working spaces so that sex workers traveling in daily to work have to negotiate with them for their operational space. In the process, some stakeholders assume a functional role in the sex market. An old homeless beggar would not allow a younger woman to sleep on the railway platform unless she supported her with income from sex work. In other instances, they may simply exploit sex workers' vulnerability. A homeless ex-sex worker with two daughters sent away her elder daughter, worried that she would be raped by a homeless man who had begun to sleep next to her at the station at night. Finally, since customers are passengers and are rarely repeat players, their bargaining power vis-à-vis all stakeholders is uniformly poor, inducing them to bribe the police if and when apprehended.

I suggested earlier that the state's use of the IPC against sex markets is underreported in the crime data. This is evident in Tirupati where the police used IPC provisions directed specifically at sex markets, such as Sections 372 (selling minor for purposes of prostitution) and 373 (buying minor for purposes of

prostitution) but also Sections 268 (causing public nuisance) and 294 (obscene acts and songs).<sup>28</sup> Section 294 in particular is used more often than the ITPA to arrest sex workers. My analysis of a study of the FIRs, collected by WINS for seventy cases filed in 2001, 2002, and part of 2003, revealed that only one case had been registered under the ITPA, and that was against a lodge owner, the rest being cases under Section 294. In another study conducted by WINS in 2003–4, 192 cases had been filed under Section 294 in Chittoor district alone, although it is not clear how many were related to sex workers. It was difficult to get an empirical gauge from interviews with sex workers of the regularity of enforcement initiatives or to correlate time spent in sex work with the rate of arrest. More generally though, and this is evidenced by the difficulties that WINS faced in the Chittoor bail incident, Tirupati's enforcement of anti-sex work laws runs contrary to the nationwide and statewide trend in that the IPC is used far more frequently than the ITPA, although this trend itself reflects the underrepresentation of generic IPC cases filed against sex workers.

From my account of the range of criminal laws used against sex workers, it is clear that enforcement practices of the police are an independent variable (Larsen 1996, 42) in assessing the impact of laws like the ITPA. Not surprisingly then, it has been suggested that prostitution law reform may be less important than changes in enforcement practices and strategies (*ibid.*, 48), although perplexingly, even varied enforcement practices have been shown to have similar substantive effects on sex markets (*ibid.*, 47). If this is true, it is worthwhile to ask if we can arrive at a profile of enforcement practices for the Tirupati police that goes beyond a vocabulary of bias.

The enforcement profile of the police encompasses their motivations for choice of law, the set of outcomes they intend to produce, and the methods they employ to achieve them. Motivations are numerous and reflect both institutional priorities and individual preferences. Police involvement in sex markets is rarely driven by internal demand. Rather, public pressures and political directives to address the "prostitution problem" (*ibid.*, 880) push the police to either expand or retract the level of enforcement of anti-sex work laws. At the very least, these include political priorities of crime control (*ibid.*, 878), quotas for police action against crime (*ibid.*),<sup>29</sup> a sense as to the quantity of sex work that is permissible, its visibility (*ibid.*, 880), the public conflict involved, the legitimacy of the police in appearing to take action, the extent of sex workers' mobilization,<sup>30</sup> and the police's appreciation of sex workers' bargaining power. Punnose, a senior Indian police officer from Kerala, admitted his enforcement predicament—having to appear to deal with public nuisance and be the moral police when he himself believes that paid sexual intercourse is not an offense, the difficulties of targeting criminals without public help, and the lack of an offense in the ITPA against customers. Consequently, "inconsistencies among moral precepts, social standards and definition of offences make the enforcement of the act highly prone to unrealistic public expectation on the one hand and corruption on the other hand" (Punnose 2007, 25).



More recently, however, the prioritization of antitrafficking initiatives by the Indian state and the gradual instantiation of feminist discourse in governmental policies have influenced the highest echelons of the police bureaucracy, including in AP. A circular dated April 19, 2003, from the additional director general of police in Hyderabad, and two circulars dated September 30, 2004, and November 22, 2005, from the state's topmost police officials, the director general and inspector general of police of AP, conceded that the ITPA was not being enforced according to its true spirit. The circulars therefore urged the police to target third parties rather than sex workers, as booking a sex worker under Section 8 "revictimized" a victim of trafficking and sexual exploitation. A non-bona fide arrest of a sex worker under Section 8 or any extortion or harassment would invite disciplinary action against the concerned policeman. This high-level change in the perception of the problem was hardly transmitted through the state's police machinery. Conversely, knowledge of how the local police use the IPC and other SLLs to harass sex workers has not percolated upward.

Once the police make enforcement choices, outcomes include pay-ups in the form of fines or imprisonment under the relevant criminal law *or* nonenforcement. Nonenforcement in turn could arise from *de facto* decriminalization, where the police consciously desist from enforcing the law against sex workers *or* from payoffs that they receive from interested stakeholders so that the law is not enforced against them. In *de facto* decriminalization, the police may make an assessment that certain forms of sex work, such as street-based sex work on the highways near Tirupati, are not serious enough to warrant intervention. The police may also agree not to enforce the law as long as sex workers abide by certain conditions to reduce, if not eliminate, the negative externalities of sex work in a given neighborhood (I will discuss this later in the chapter, in the context of street-based sex work at the bus station and cinemas).

As for nonenforcement from payoffs, a hotel owner in Tirupati who I interviewed alleged that at least forty hotels and lodges bribed the police to prevent police raids. A subinspector and circle inspector, however, told WINS that they were aware of, but were hardly concerned about, hotel-based sex work. There was generally little evidence in Tirupati of regular and systematic rent-seeking by the police in exchange for a combination of nonenforcement and staged arrests to meet quotas to legitimate police work. Yet there were payoffs to lower levels of the police force. In house-based sex work, the owner operator paid the blue colt police a weekly bribe of 100 rupees, while an independent secret sex worker paid no periodic bribes but provided the police monetary and sexual favors on an *ad hoc* basis. Yet there appeared to be no necessary co-relation between the institutional setting for sex work and enforcement choices or the extent or frequency of police action.<sup>31</sup>

From sex workers' perspective, the methods of enforcement are as critical as the choice of law. Enforcement methods include what Larsen refers to as routine enforcement (1996, 47), major sweeps, and what I call targeted enforcement.



Routine enforcement is where the police periodically arrest sex workers who do not contest charges and treat fines and lawyers' fees as the costs of doing business. Major sweeps are where the police swoop down on crowded public areas in a highly visible fashion to arrest sex workers and customers, who then offer bribes to be let off the hook. Targeted enforcement is where the police prioritize intervention in the form of a raid to rescue a minor or trafficked sex worker. Routine enforcement was common in Tirupati, while major sweeps and targeted enforcement appeared more common in Sonagachi.

Where the police decided to take action, they could end up choosing different criminal laws even for sex work in the same institutional setting and mode of organization. This choice depended on an internal calculus of factors, including the gravity of the offense, the intensity of the offending behavior, and the class status and bargaining power of the offender. Poniamma, the owner operator in house-based sex work whom I visited, had managed to run her sex business for ten years with minimal police enforcement. Yet when I met her, she had been subject to arrests under the IPC, which only entailed the payment of a fine with a police threat to shut down the premises under the ITPA in the future. Thus, although the police initially assessed house-based sex work as less harmful, they were willing to use the more draconian ITPA, as Poniamma persistently defied the law. As Poniamma's ability to "manage" the police reduced, she passed on the costs of fines to sex workers by reducing their share of the price per shot to a mere 20 percent. They were, however, willing to continue working for her because there were few owners nearby, the income from sex work, although supplementary, was valuable, and they preferred not to travel far for sex work or risk renting a space for own-account sex work. However, Poniamma herself had poor bargaining power vis-à-vis the police because of her fixed location. Scaling up the sex business enough to be able to afford another house seemed unlikely, and renting another space in a residential neighborhood would require the landlord's consent. Even assuming this was possible, its anonymity would be short-lived, as the blue colt police would soon find her new location.

At the high end of house-based sex work, the situation was similarly precarious. Vasanthakumari sought to defer police action due to the immobile and discrete nature of house-based sex work and the high costs of prosecution. However, bribes to low-level policemen and a politically influential customer base, which had a strong incentive to avoid revelation of their names, did not offer adequate protection. Meanwhile, the police admitted that despite knowing that she recruited college girls for sex work, they could not raid her for lack of evidence. When finally arrested, unlike Poniamma, Vasanthakumari was booked under Sections 3 (running a brothel) and 5 (procuring for the sake of prostitution) of the ITPA, and Section 373 of the IPC (buying minors for prostitution). Given the controversy the case generated and the fear of political interference, the investigation was carried out, not by the local Tirupati police, but by the state-level Central Investigation Department. Indeed, a women's organization

alleged a cover-up (*The Hindu* 2005c), while others speculated that the raid was motivated by caste-based party politics.<sup>32</sup> Ultimately, she was convicted in 2007 on all counts and given a sentence of seven years' rigorous imprisonment with a fine of 22,000 rupees (*The Hindu* 2007). Thus, the Tirupati police used the ITPA to prosecute more serious crimes or when stakeholders repeatedly ignored their warnings.

### ■ Outlining an Enforcement Equilibrium: De facto Decriminalization in Tirupati's Street-Based Sex Work

So far, I have described enforcement practices in Tirupati in terms of what Matthews calls the direct enforcement model, which assumes a confrontational dynamic between the police and sex markets. Yet negotiations between sex workers and the police over the levels of legal enforcement are not uncommon (Project Parivartan 2006, 3, citing de'Afreitas 1984; Matthews 2005, 884; Larsen 1996, 46). In Tirupati, street-based sex workers at the bus station in particular attempted self-regulation through negotiations with the police mediated by WINS. This was enabled by the fact that they were better mobilized than sex workers at the railway station.

The interactions between sex workers and the police at the bus station earlier approximated an enforcement equilibrium of de facto decriminalization where the ITPA was not used. Arrests and prosecution under Section 294 of the IPC instead amounted to *routine enforcement*. In addition, sex workers were subject to low-level but almost daily police *harassment* by blue colt policemen who would arrive on motorcycles at 5:00 PM, the busiest time for sex workers, and warn them not to solicit. If they refused, they would physically harass sex workers and demand monetary and sexual favors. Sex workers invariably returned by 7:00 PM to work until midnight. Meanwhile, higher-level policemen passing by the area in jeeps would haul sex workers off to the police station. Such harassment persisted even when sex workers were in public places with family members and not soliciting customers.

Sex workers viewed the fine under Section 294 merely as a cost of business to be recovered through additional sex work. Older sex workers, in particular, bore no grudge against policemen. The police were doing their duty, they reasoned, even if laws were unjust in targeting poor workingwomen. Instead, their yardstick for judging the police was whether they protected sex workers against rowdies. Sex workers in police custody, especially secret sex workers, tried to minimize time spent at the station, especially overnight, by pleading a medical condition like epilepsy, or paying a monetary or sexual bribe. When produced in court, they would not contest charges or seek legal representation, instead paying a 1,000-rupee fine after summary trial. Older sex workers advised younger sex workers to dress like a destitute to evoke the judge's sympathy. The police and sex workers treated each other as repeat players, their interactions

backed up by a broad repertoire of performances, rhetoric, strategies, and tactics, which included keeping score. WINS also displayed considerable dexterity in its rhetoric with law enforcement officials, although it frequently ended up portraying sex workers as victims to counter the officials' perception of them as "morally loose" women.

The enforcement equilibrium that I have described was fluid. Fluidity arose from the attempts of sex workers and WINS to reduce constant police harassment while the police sought to reduce the visibility of sex workers' objectionable behavior in public. For instance, deeply appreciative of police discretion in enforcing anti-sex work laws,<sup>33</sup> WINS brought to the attention of the superintendent of police, Chittoor, the circular from the director general of police, instructing policemen to desist from using Sections 4 and 8 of the ITPA against sex workers. Similarly, in the Charter of Demands that I describe below, sex workers literally requested the police not to enforce laws against them, although their real fear was arbitrary police violence. Meanwhile, the police admitted that they were primarily concerned with public nuisance. Thus, both the police and sex workers relegated to the background normative and ideological questions about sex work as a livelihood strategy, the legitimacy of the ITPA, and routine enforcement under the IPC. In *de facto* decriminalization, all that seemed to matter for both parties was the visibility of sex work and the attendant harassment. After all, the Tirupati police were like the police elsewhere who, given the minor legal status of street-based sex work, were wary to expend large amounts of resources on it and yet did not want to be accused of failing to protect the public and maintain order (Larsen 1996, 41).

## ■ The Code of Conduct Negotiations

During my stay in Tirupati, an occasion for a rupture in the enforcement equilibrium arose. In July 2004, within the space of one week, police officers found two intoxicated sex workers, in different stages of undress, making a public spectacle of themselves. One sex worker, a WINS peer educator, had engaged in a public brawl with her lover. The circle inspector beat her, he admitted. The other intoxicated sex worker from a scheduled tribe<sup>34</sup> sat in the bus conductor's seat almost completely undressed, refusing to get down. The bus was diverted to the police station, where for fear of further embarrassment, the police let her go after a warning.

The subinspector and circle inspector summoned WINS to the police station, claiming to have received complaints from offended pilgrims. Sex workers had become a public nuisance, they declared, and it would be best if WINS could rehabilitate them. WINS responded that the rehabilitation of a few would not prevent the entry of others into town. Admitting that secret sex work was not their concern, the officers wanted to curtail the visibility of sex workers in public. WINS asked if constant police harassment would stop because now the

blue colt police even followed sex workers home to harass them. The officers feigned ignorance, promising to suspend the errant policemen. WINS agreed to talk to the sex workers, the unspoken deal being that if sex workers behaved better, the police would not harass them.

That week, peer educators set to work on a Charter of Demands and a Code of Conduct to regulate street-based sex workers' behavior in exchange for reduced police harassment. These were endorsed at a later monthly meeting attended by sex workers from in and around Tirupati. *Demands* of the police were that they not enforce criminal laws against sex workers, book frivolous cases against them, and that they inform peer educators of arrests. Further, sex workers requested that the police not physically or verbally abuse them, entrap them, share their photos with the media, and blame them as vectors of HIV and STIs. Peer educators wanted to be respected, not taunted by the police. As for the Code of Conduct, the term was most likely suggested by WINS. Yet the impulse to self-regulate seemed questionable from the very start and was debated at meetings of both peer educators and sex workers. The police had conveyed a three-point agenda for discussion, including intoxicated sex workers causing public nuisance, sex workers abusing solution and lying dazed on the streets, and underage sex workers as young as twelve getting pregnant. Sex workers found the first demand hypocritical, since they in fact wanted to work discretely and were not solely responsible for public nuisance. A transgender sex worker angrily offered to bring several intoxicated men who were misbehaving in public to the police, demanding that if the police wanted to eradicate sex work, they should curtail customer desire by banning pornography and stopping them from stalking sex workers. A peer educator from Chittoor claimed sex work to be her chosen job, which the police had no business eradicating. Sex workers were also concerned that spurned customers and rowdies had filed false charges of misbehavior against them. As for substance abuse, sex workers acknowledged that some sniffed solution, but insisted that they did not get intoxicated or cause public nuisance. Finally, they felt that young, pregnant sex workers on the street were the exception and were not underage.

The monthly meeting of sex workers at WINSPEACE was attended by sex workers from almost all institutional settings. The discussions were, however, dominated by street-based sex workers among whom differences arose almost immediately. An older sex worker attributed the low attendance at monthly WINS meetings to younger sex workers who abused solution and stayed dazed on the streets. A younger sex worker retorted that older sex workers had their own weaknesses. At least one younger sex worker repeatedly brought up the Charter of Demands, despite its relatively noncontroversial nature, rather than focusing on the Code of Conduct. The three issues posed by the police generated such animated discussions that WINS split the gathered sex workers right away into two groups, one with younger street-based sex workers, some of whom abused solution and the other with older sex workers who worked near the bus stand but did not abuse solution.

To monitor intoxication and misbehavior in public, Maramma, the older sex worker I interviewed, was nominated the leader. Sex workers were to take responsibility for their health and not drink alcohol while working unless a customer insisted. Even then consumption was not to exceed three ounces. Alcohol consumption was in any case uncommon among street-based sex workers. If a sex worker became intoxicated, a friend was to contact Maramma immediately and the WINS office in her absence. Maramma was to take the sex worker home and counsel her about attending monthly meetings at WINS and saving money rather than expecting peer educators to reach out to her. The sex worker would be given three chances to curb her habit, after which WINS would withhold its services from her.

As for substance abuse, younger sex workers, irrespective of whether they abused solution or not, elected Pavana, the oldest of them, by a show of hands. They agreed that a sex worker must not use solution during sex work or within her area of operation. If she did not give up the habit within three months, the leader was to counsel her to attend a hospital-run recovery program. If counseling failed and two other sex workers witnessed her unwillingness to stop abusing solution, she would cease to receive help from WINS and be fined 1,000 rupees. That fine would be placed in a savings account for her benefit.

Finally, all sex workers agreed that no child should do sex work. If they found a pregnant, underage sex worker, they would notify her school, family, and WINS, or the police. They would take her to the hospital and WINS would give her a loan. A younger sex worker reported that the proposal was futile because when she had recently told three street children not to sell sex, they had sarcastically responded by asking if she would pay them a grand sum in return. Finally, all sex workers could approach WINS for economic rehabilitation as long as they pursued opportunities seriously, unlike a younger sex worker who refused to show up at a leather tannery where WINS had arranged a job for her. Sex workers could also use other NGO services and access the numerous vocational programs at the government-run Mahila Prangam training center.

### ■ Consolidating the Equilibrium

At first, changes in street-based sex work at the bus station appeared promising, not in the least because both the police and sex workers had an incentive to bargain. A fragile sense of community developed among the sex workers because, after all, if one of them misbehaved, the police retaliated against them all. WINS was available as an intermediary to whom the police and sex workers could complain safely, if sex workers caused a nuisance or the police became violent. Yet given their highly unequal bargaining power, the police were unlikely to honor the deal. Predictably, when WINS informed the subinspector that sex workers had signed a Code of Conduct, he begged off the call due to a poor phone connection. WINS being aware of this possibility had been

reluctant to organize a face-to-face meeting for fear of exposing the women's identities to the police. This was heightened by reports that WINS was receiving from neighboring districts about the launch of a major UNICEF-sponsored antitrafficking project. They already suspected that this project, which equated sex work with trafficking, was behind the increased raids on lodges in Chittoor.

Thus, the bargaining between the police and sex workers was doomed from the start. However, the short-lived process provides insights on prospects for self-regulation by sex workers. Although negotiation with the police assumed the existence of a sex worker community, sex workers themselves were deeply skeptical of this, especially when one of them pointed out that they did not hesitate to call one another whores and betray each other. As the meeting unfolded, a stark divide by age, a significant occupational factor in the sex industry, emerged.

Older sex workers saw themselves as family women with children and a steady male partner to be responsible for. In their view, younger sex workers became pregnant as teenagers, squandered away money on liquor and lovers, harmed their babies through substance abuse, and had little hope of being good mothers. Besides, they created problems for the entire sex worker community. It was the older sex workers who agreed with WINS that sex workers needed to maintain decorum in public. They argued that the police did not stop sex workers from drinking but took issue with public misbehavior and immodesty. Peer educators felt that they should not sit in groups, talk loudly, harass men, and cause a nuisance by provoking a street fight with a disagreeable customer. It was when sex workers flirted with policemen that the latter took liberties with them. Sex workers had to behave themselves before pointing fingers at the public. If the taxonomy of the Code of Conduct is anything to go by, older sex workers seemed more enthusiastic about self-regulation, which entailed observing middle-class strictures against female alcohol consumption, substance abuse, and irresponsible motherhood, in contrast to younger sex workers who defied accepted gender codes.

In all three instances of debate under the Code of Conduct, sex workers and peer educators prescribed self-regulation with an older sex worker overseeing compliance. Yet while older sex workers had greater negotiating power with the police, rowdies, and customers, their influence over younger sex workers was tenuous. Older sex workers acknowledged as much. One older sex worker despaired at the unproductive nature of counseling younger sex workers. As such, the Code of Conduct cannot be viewed as a mode of discipline used by older sex workers against younger sex workers. Instead, it envisaged sex workers as responsible "professionals" who would not consume alcohol or abuse solution during sex work, relegating such consumption to a moment of leisure in private. Thus, on the face of it, the Code of Conduct formalized a set of norms backed by community sanctions. Yet the subtext of discussions at the meeting gestured to the sheer impossibility of its observance. For instance, many younger sex workers were homeless with no private space or leisure time in

which to consume alcohol or abuse solution. For sex workers abusing solution, there was only one recovery facility in Tirupati run by PASS, which was geared toward drug and alcohol addiction. Even one of Tirupati's hospitals that offered highly specialized medical services had no recovery program, despite the state's highly successful prohibition movement in the 1980s.

Sex workers were perhaps justified in sensing from the very start of the Code of Conduct negotiations the intense desire of the police to obliterate the sex worker body from public space, whether engaged in sex work or not. After all, the two intoxicated sex workers were not working when misbehaving. Who were these sex workers who overstepped every social norm—having sex with several men but demanding they not be raped, consuming alcohol when women didn't drink in public, undressing in public when even sex workers were fully clothed when soliciting or doing sex work? Carpeting the sex worker's every step with the rhetoric of Tirupati's holiness, the police found an effective excuse. Sex workers for their part strived toward discreet street-based sex work, backing guidelines with drastic penalties, especially for sex workers abusing solution, leading Rehana to wonder if there was any difference between them and the police! This impetus for self-regulation had come from a strange convergence of the interests of the police, middle-class organizers of WINS, and older sex workers. But the more sex workers pressed for self-regulation, the more absurd it became. After all, even at the start of the meeting, one organizer whispered to me that some sex workers had already had a drink. Another organizer expressed surprise at the sobriety of the newly elected leader of older sex workers, noting how she was most articulate when not sober—that is, when you got the real story about sex work in Tirupati, she claimed. If the sex worker came into her own only when intoxicated and therefore existed through her defiance, we can more fully appreciate the desire for abolition—but also its futility. What did this mean for self-regulation then? Tellingly, when I recently asked a WINS activist the final outcome of the Code of Conduct negotiations, she responded, “If you are referring to what the women had given in writing, they seem to have forgotten and gone back to the old ways of sniffing at the bottle.” There was no mention of the police not keeping their side of the deal.

### ■ Regulation in a Residual Sex Market

In this chapter, I have outlined the settings and modes of organization of sex work in a loosely organized residual sex market like Tirupati as a counterexample to more typical accounts of brothel-based sex work. I have also demonstrated that the structural bias thesis has considerable explanatory powers when it comes to the ITPA, as is exemplified in the Chittoor bail incident and the abduction and rape of Menaka. The structural bias thesis thus embodies the powerful feminist critique of the patriarchal state and its violence against sex workers and cannot be ignored. Yet it is formalist so that it fetishizes the

gap between the law in the books and in action, rather than looking at the day-to-day functioning of any law, including any criminal law. Self-regulation is preferable any day to the strict enforcement model, especially when the state is being called upon to further criminalize sex work. Still, self-regulation is a fraught option, laden as it is with the moral minefields that I have already outlined. Sex workers thus have the propensity to replicate the very gender norms they contest through their work. In the next chapter, I test these possibilities for sex work in an institutional setting specific to the sex industry, namely, the brothel, and assess the role of the law in a spatially delineated red-light area.



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### Born unto Brothels

#### Sex Work in a Kolkata Red-Light Area

On Friday the women plan to participate in a procession wearing black and white masks. . . . The sex workers will also tie their hands in chains made of paper, a symbol of their bondage. After reaching Sonagachi early on Friday, they will make a bonfire and burn their chains and masks.

*(Times of India 2004b)*

Sex workers' suggestion of throwing off the shackles of "sex slavery" upon entering Sonagachi, Kolkata's largest red-light area must appear jarring to modern sensibilities, inundated as we are with images of sex slavery. These stereotypical images have only been reinforced domestically by reports of the Indian government, which unfailingly produce a fixed national stereotype of the trafficked sex worker (Sen and Nair 2004). Yet Sonagachi also suffers from overexposure of another kind. In the world of HIV activists and donor agencies, Sonagachi through its association with the DMSC has assumed an iconic status for its community-based HIV prevention project. The DMSC's successes, while laudable, should not be taken to imply extensive sex worker empowerment in a complex sex market like Sonagachi itself. Hence, I anchor the Sonagachi experience in this chapter in an elaboration of the brothel, an institution that I argue is unique to the sex industry, by delineating its stakeholders, the relational dynamics between them, and the stakes that sex workers develop within it. In this sense, my sociology of sex work in Sonagachi is far less ambitious than chapter 4 where I considered several institutional settings in which sex work is performed in Tirupati. Folded into the sociology of sex work in Sonagachi is also a description of its heterogeneous legal playing field. I test for Sonagachi the validity of the structural bias thesis that I outlined in the previous chapter. In Tirupati, I emphasized the importance of the structural bias thesis, but also the realities of de facto decriminalization achieved through routine enforcement, payoffs, and consensus between stakeholders. In this chapter, while I sharpen the insights of the structural bias

thesis by elaborating on yet another mode of criminal law enforcement against sex markets, namely, of targeted enforcement, I also deploy a legal realist analysis to examine other sets of legal rules and norms operative in the red-light area. I reassess the structural bias thesis in light of this legal ethnography.

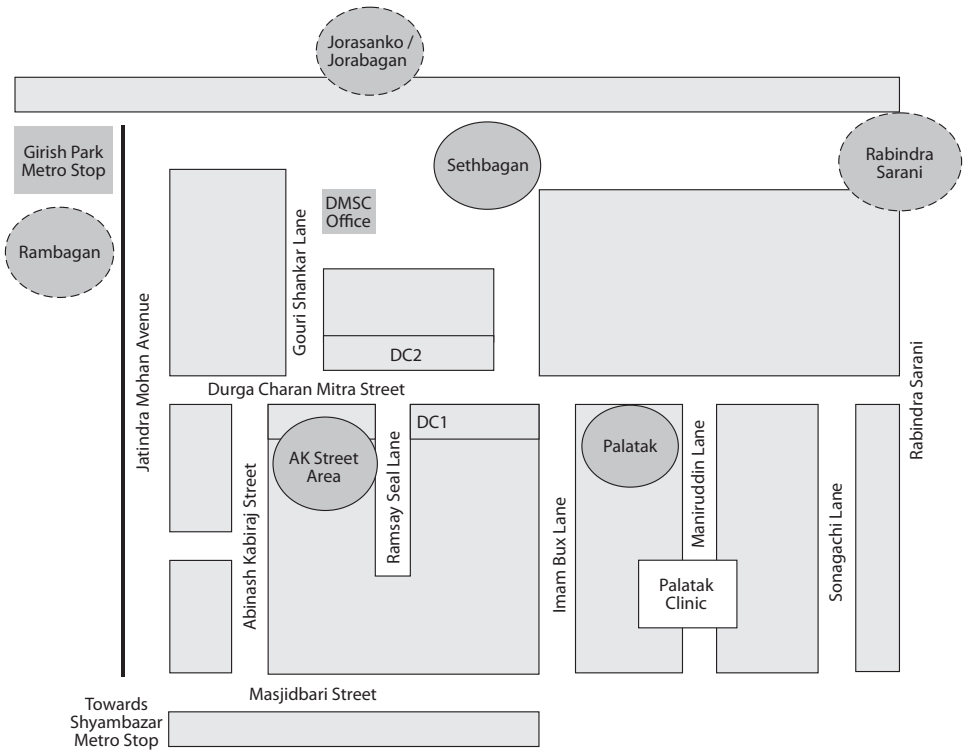
### ■ Sex Workers of Sonagachi: A Brief Profile

Sonagachi is rumored to have existed since the early nineteenth century, if not for the past three hundred years (Banerjee 2000). According to the DMSC, who set up in Sonagachi in 1995, there are approximately 26,095 sex workers (All India Institute of Hygiene and Public Health 1994, 39) scattered over twenty-one red-light areas in Kolkata proper and its twin city, Howrah.<sup>1</sup> In Sonagachi itself, there are an estimated 7,091 brothel-based or residential sex workers and 3,262 flying sex workers, also referred to as floating sex workers.<sup>2</sup> Flying sex workers travel to Sonagachi on a daily basis in order to do sex work. Despite my focus on brothel-based sex work, it is exceptional in Kolkata's sex market, and the majority of its sex workers are self-employed, earning relatively low amounts per shot.

Sonagachi is a shorthand term for the four red-light areas shown in map 2, namely, Sonagachi proper and the three smaller neighboring, if not adjacent, red-light areas of Sethbagan, Rambagan, and Jorabagan. Sonagachi proper is divided by the DMSC for operational purposes into three zones, namely, Abinash Kabiraj Street or the AK Street area, the Palatak area, and the Masjidbari or Rabindra Sarani area. I conducted empirical work in Sethbagan, the AK Street area, and the Palatak area. While the DMSC maintains extensive data about Sonagachi in general, little in this data delineates the specific characteristics of its zones. Anecdotal accounts from peer educators suggest that Rabindra Sarani consists of poorer sex workers, the AK Street and Gouri Shankar Lane areas of high-end sex workers like Agrawalis,<sup>3</sup> Sethbagan, and Rambagan of self-employed older sex workers and the Palatak area of middle-income sex workers. As of 2003, Sonagachi proper had approximately 5,688 brothel-based sex workers and 3,007 flying sex workers, Rambagan had 835 brothel-based and 202 flying sex workers, and Sethbagan had 433 brothel-based and 53 flying sex workers (Sex Workers Population 2003). Jorabagan, which is in close proximity to Sethbagan and Rambagan, had 145 category C (described below) brothel-based sex workers, but their numbers were dwindling as commercial enterprises and families had begun to occupy buildings there (All India Institute of Hygiene and Public Health 1994, 15).

### ■ The Brothel as an Institution

Sex workers in Sonagachi are a highly internally differentiated group. In 1992, when the All India Institute of Hygiene and Public Health initiated the



Map 2. Sonagachi proper and adjacent red-light areas

STD/HIV Intervention Programme (SHIP), or the Sonagachi Project, as it came to be known, it categorized sex workers according to *income levels*. Category A sex workers earned more than 100 rupees per shot, category B sex workers between 50 and 100 rupees, and category C customers earned less than 50 rupees (All India Institute of Hygiene and Public Health 1994). From 1998, the Sonagachi Project classified them according to their *mode of organization of sex work*, which was a gauge not merely of their income but, more important, of their work conditions. In the increasing order of functional independence, by which I mean control over the conditions of sex work, these modes are *chhukri* (“girl” in Hindi; bonded labor), *adhiya* (a contractor system where income from sex work is shared with a brothel keeper), and the self-employed mode. Further, even within a certain mode of organization of sex work, the *scale* of the brothel as a sex business, as I will show, has important implications for sex workers’ functional independence.

Irrespective of the mode of organization of sex work, the brothel emerges as the fundamental unit of Sonagachi’s sex market. The brothel is an institution involving a particular configuration of the organization of labor, both sexual and social, backed up by a set of living and working arrangements, practices,

ideas, norms, ideologies, and consciousness that are unique to the sex industry. These structural and cultural aspects of brothel-based sex work are fundamentally shaped by the spatial concentration of brothels in a red-light area. Unlike institutions such as the school, family, church, military, or prison, which could be characterized as public or private, the brothel operates at the crossroads of the market and the family, harboring both sex workers and brothel keepers, as well as their families. This permeates every aspect of institutional life within the brothel. For example, brothel rents reflect commercial levels, but the living conditions of the property do not approximate standards of commercial property since the brothel is the living space of its sex workers and brothel keepers, who are its laboring and entrepreneurial classes, respectively. Similarly, unlike the family where the wife socially reproduces her husband, in a brothel the sexual labor of several women, managed by the entrepreneurial labor of a brothel keeper (often a woman herself), socially reproduces a collectivity of male customers. At the same time, the brothel's economy, like that of the family, includes the labor invested by the brothel keeper in reproducing the sex workers as laborers, as well as the reproductive labor that both sex workers and brothel keepers invest in their families, who reside with them in the brothel.

A triangular set of relations form the institution of the brothel (see fig. 1). These three relations are: (1) labor relation between the brothel owner or brothel keeper, on the one hand, and the sex worker, on the other; (2) tenancy relation between the landlord and either (a) a lessee with no functional role in the sex industry, (b) a brothel owner or brothel keeper (where a labor relation exists), or (c) a self-employed sex worker (where no labor relation exists); and (3) the service relation between sex workers and a brothel (if any), on the one hand, and customers, on the other. Internal stakeholders in the brothel setting include the landlord, lessee, brothel owner, brothel keeper, *dalal* (or *tout*), sex worker, and customer. External stakeholders include *goondas* (local goons), the DMSC, the police, vendors, and moneylenders.

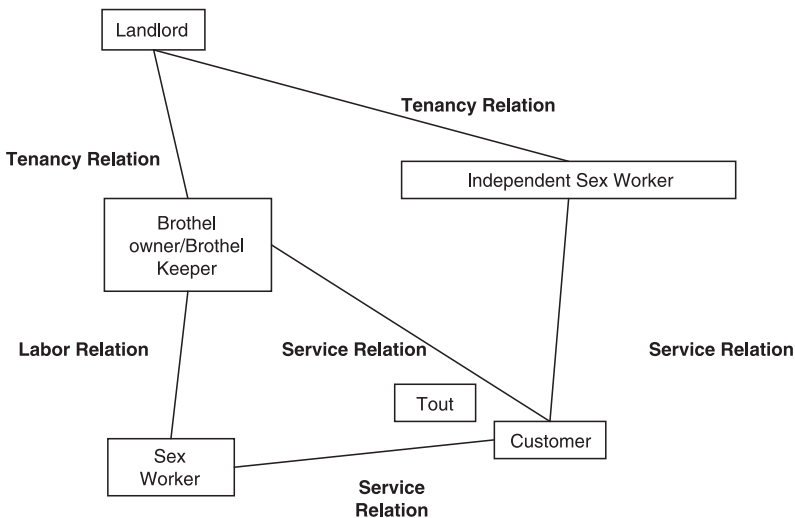
The institutional salience of the brothel in Sonagachi's sex market must not be taken to imply a nexus theory that assumes the existence of all three relational dynamics wherein the interests of internal stakeholders are routinely stacked up against sex workers. Indeed, the law—as well as sex workers' own conceptualization of the brothel—do not always presume the existence of all three relational dynamics. Consider the labor relationship. We typically associate a brothel with the existence of a brothel keeper and therefore a labor relationship. Yet, Section 2(a) of the Immoral Traffic Prevention Act, 1986, the extant Indian anti-sex work law, conceptualizes the brothel as constituting “any house, room, conveyance or place or any portion of any house, room, conveyance or place, which is used for purposes of sexual exploitation or abuse for the gain of another person or for the mutual gain of two or more prostitutes.” The phrase “for the mutual gain of two or more prostitutes” suggests that a brothel, for purposes of the law, does not necessarily require a labor relationship, and

that even two self-employed sex workers under the same roof could constitute a brothel. Meanwhile, Indian courts, following English law, have held that a single woman receiving customers will not constitute a brothel.<sup>4</sup> Turning to sex workers' self-conceptualization of a brothel, the Sonagachi Project defines the brothel as "one unit where the number of sex-workers ranging between 1 and 15 work under one madam" (All India Institute of Hygiene and Public Health 1998, 10),<sup>5</sup> implying the need for a labor relationship, whereas for enumerative purposes, the project dispenses with this and considers each self-employed sex worker to constitute one brothel unit. The legal definition is overinclusive in dispensing with the need for a labor relationship in order to effectively criminalize organized sex work. The overinclusive sex worker conceptualization, on the other hand, redefines the labor relationship by visualizing a sex worker as capable of having her own-account sex business. I use the term "brothel" to connote any combination of the three relational dynamics I have outlined above.

### ■ Relational Dynamics of the Brothel: The Labor Relation

The first relational dynamic of the brothel is the labor relationship, which I use instead of "employment relation" to connote the unequal bargaining power of the parties. The labor relationship varies according to the three modes of organization of sex work in Sonagachi, which include *chhukri*, *adhiya*, and the self-employed mode. The *adhiya* and self-employed modes, in turn, encompass other submodes of organization of sex work. As of 2001, roughly 29.3

Figure 1. Relational dynamics of brothel-based sex work



percent or one-third of Sonagachi's sex workers was self-employed or operating independently while the rest worked under brothel keepers (STD/HIV Intervention Programme 2001). This data is not further differentiated in terms of whether sex workers under brothel keepers worked as *chhukris* or *adhiyas*. More generally, there is no correlation between income and the mode of organization of sex work. Higher income or superior bodily capital does not imply functional independence; neither does lower income necessarily mean a lack of it. In fact, a 2001 DMSC survey indicated that more category A sex workers worked under a brothel keeper (1,006) than were self-employed (867) (*ibid.*). Similarly, more category B sex workers worked under a brothel keeper (1,122) than on their own (855) (*ibid.*). However, more category C sex workers (1,813) were self-employed than those working under a brothel keeper (1,438) (*ibid.*). Again, based on this, we cannot conclude that high income is necessarily correlated to lower control over one's conditions of sex work. Conversely, given the range of sex worker incomes and the myriad factors that they depend on, a certain mode of organization of sex work cannot be pegged onto a particular income level.

#### Chhukri Mode of Organization of Sex Work

In the *chhukri* mode of organization of sex work (Sleightholme and Sinha 1996, 11, 12; Joardar 1984, 100),<sup>6</sup> sex workers are virtually bonded to their madams, who pay an advance to agents or to the sex workers' relatives for her services. A *chhukri* works under the madam with neither leisure nor choice over clients and sexual practices until she pays off the advanced amount (Society for Human Development and Social Action 1999, 7). In return, the brothel keeper provides a *chhukri* with food, shelter, and basic clothing (Joardar 1984, 105). She expends considerable energy in maintaining the *chhukri* in bonded sexual labor. Hence, brothels with *chhukris* are likely to have no more than ten *chhukris*, irrespective of their income category. Despite the DMSC's claim to have eradicated *chhukri*, it exists in Sonagachi, albeit to a lesser degree than prior to the DMSC's efforts at sex worker organization. I came across three sex workers in their twenties in Palatak who had been *chhukris* until recently, having been trafficked into sex work at the age of twelve. They escaped from their brothel keeper only with the help of a beat policeman. Not all brothel keepers in Sonagachi traffic in *chhukris*; some do not have the necessary capital and are not willing to borrow the amount. Others having been trafficked themselves prefer not to have a *chhukri*. Yet others view it as legally risky, and this would, in the calculus of the local police, constitute high-risk criminal behavior requiring substantial bribes to stave off prosecution under the ITPA. Despite the high costs, the *chhukri* mode is highly profitable, which explains why a brothel keeper, having more than recovered her initial costs, will allow the sex worker after a few months to visit her family without escort, or even allow her to work

for another brothel keeper on an *adhiya* basis, which I will detail below. As for a smart and well-earning sex worker, she is said to get rid of her brothel keeper sooner or later (Dell 1999, 108, quoting Mukherji). The *chhukri* mode of organization of sex work is therefore a high-investment, high-profit, and high-risk venture from the brothel keeper's point of view.

#### Adhiya Mode of Organization of Sex Work

Under the second mode of organization of sex work, namely, the contractor mode or *adhiya*, possibly derived from the Hindi word *adha* (half), the brothel keeper, in exchange for a place to stay, takes half the price per shot from the sex worker. Brothel keepers charge extra for food, clothing, and medical expenses. The sex worker also bears the risk of illness, although treatment for minor illnesses is subsidized by DMSC-run clinics. A few high-end brothels routinely use a *dalal* (tout), in which case he is paid 25 percent of the price per shot before the brothel keeper and sex worker divide the income. Three hundred such *dalals* work in Sonagachi under a chief and, like much of Kolkata's migrant population, come from the Indian state of Bihar. Commentators note that using *dalals* is not always financially exploitative as women can have more customers without risking arrest by soliciting publicly (Sleightolme and Sinha 1996, 94).

The *adhiya* mode of organization of sex work predominates in Sonagachi. *Adhiya* sex workers can choose to work under a brothel keeper in far less severe conditions than the *chhukri* mode. When *chhukris* pay off their debt or escape from abusive brothel keepers, they will often work as an *adhiya*. Then there are newer sex workers who enter the occupation relatively voluntarily under severe force of circumstance, without being physically coerced or deceived into sex work by a third party, who also opt for the *adhiya* mode. They do not go independent because they cannot afford to pay *selami* (a premium for the right to rent a property, detailed later in this chapter) for a room in Sonagachi, nor do they have the contacts to attract customers or the resources to avoid arrests and police harassment. According to brothel keepers, there is considerable turnover in *adhiyas*, who either move between brothels or begin to operate independently.

While the *adhiya* system signifies the formula for apportionment of income between the sex worker and brothel keeper, the *adhiya's* bargaining power also depends on the scale of the brothel. In this, she is unlike *chhukris* and self-employed sex workers, who are more likely to work in smaller brothels. For the *adhiya*, the scale of the brothel determines the organization of sexual and reproductive labor and the material conditions of sex work within it, as well as its profitability. There are three categories of brothels based on scale: the small brothel with one *adhiya*, the medium brothel with more than one but less than ten *adhiyas*, and the large brothel with more than ten *adhiyas*. The risk and profitability profiles of these brothels vary considerably.



### Adhiya in a Brothel with One Sex Worker

Here, the brothel keeper lives with one adhiya. The lone sex worker is already self-interested in maximizing the number of customers, yet the pressure the brothel keeper exerts depends on whether she has an alternate means of employment and income. For instance, if the brothel keeper has no family living with her, she is likely to be doing sex work herself, in which case, she is less dependent on the adhiya. If she does not derive a regular income from other activities, such as working for the DMSC, then the brothel keeper invests her own reproductive labor in the maintenance of the brothel by cooking for the sex worker, for instance. From the brothel keeper's vantage point, this submode of organization of sex work involves a relatively moderate investment, moderate profit, and low legal risk.

At the time of my interview, Sumangala was a pretty thirty-five-year-old sex worker from Howrah who maintained an adhiya in Palatak. After a failed marriage and repeated attempts to find a job to sustain her and her two children, Sumangala came to Sonagachi and did sex work for twelve years. She worked with a brothel keeper for nine months and paid a selami of 38,000 rupees for a room. She traveled for four years to cities in the western state of Gujarat, working as an adhiya and earning between 100 and 1,800 rupees daily. When a sympathetic man she met there paid her 200,000 rupees to rescue her from sex work, she bought land in her hometown with it and built a house that she rented out. She also owned a movie rental shop in the town where her ex-husband's family lived. She intended to continue doing sex work for as long as she was beautiful. She earned 1,200 rupees monthly from the DMSC for half a day's work as a peer educator. With several sources of income in addition to her own sex work, Sumangala seemed to be a relatively easygoing brothel keeper who spent little time supervising her adhiya, instead trusting her when they divided the previous night's income daily. Her adhiya also paid a third of her room rent. Sumangala claimed to be a kind *malkin* (or owner). Once when we were walking in Sonagachi, an ex-adhiya of hers who is now married and lives in Mumbai stopped Sumangala for a warm and animated conversation.

### Adhiya in a Medium-Sized Brothel

A medium-sized brothel typically has more than one but less than ten sex workers in addition to the brothel keeper, often an ex-sex worker. The brothel keeper lives in the brothel with her family. She often does not have the capital to traffic *chhukris*, and sex workers are recruited by word-of-mouth or on a more fortuitous basis. There is a high turnover of adhiyas in such brothels. The brothel keeper will typically hire at least one domestic helper, usually female, either resident or commuting into Sonagachi to cook, clean, run errands for sex workers and their customers, and take care of children. Instead of a regular salary, these helpers earn a small amount for each customer that the brothel

has. Unlike brothels of Agrawalis and other A category sex workers, a medium-sized brothel operating with adhiyas does not routinely retain dalals, paying a dalal 25 percent commission in the odd instance that he brings in a customer. The risk of enforcement of the ITPA against this category of brothel is low. From the brothel keeper's point of view, therefore, sex work in this submode involves moderate investment, moderate profit, and low legal risk.

Rekha was a retired sex worker and DMSC peer educator who was also a brothel keeper. She quit sex work twenty years ago, saving all her income through thrift, because it was, after all, earned by selling her *izzat* (self-respect). She had substantial bank savings, owned a house in her village, and land that was worth three times the amount she had paid for it. As a rent-controlled tenant of two rooms, for which she paid a month's rent as selami several years ago, her monthly rent was between 300 and 400 rupees. She expected to be paid at least 100,000 to 150,000 rupees on vacating either room. She maintained six adhiyas in these rooms. Claiming not to be wealthy enough to buy girls on the market, she said that younger sex workers wanting to work as adhiyas spotted her. She tried to treat them fairly, having had firsthand knowledge of the difficulties in the trade.

Another brothel keeper who I interviewed at length on two occasions was Banu. She ran a medium-sized brothel in Palatak. When I first met Banu, she was sitting on a bed in a brothel room rocking back and forth as she read out loud a string of English words from a first grade textbook. Her private tutor, who also tutored her young sons, looked on. Banu's brothel had two rooms with seven occupants. The bigger room had four high double beds with curtain rods that demarcated their spaces, so that multiple sex work transactions could take place simultaneously. There was a big steel cupboard in one corner on top of which a television set showed cable TV. There were strings across the room from which clothes hung, and unlike the other brothels I had been to, there were no pictures of deities anywhere. The next time I went to meet Banu, there were four girls in the bigger of Banu's two rooms, three of whom were sleeping, while one pretty, college-educated sex worker was sitting watching TV. Banu's tutor was helping her son study, so Banu took us to her smaller room.

Banu, a Muslim, was in her mid- to late thirties. She had five siblings and had not received much education. One day an older woman in her village took Banu sightseeing and left her at the house of a man who brought her to Kolkata; he had promised her work, but left her in sex work instead. This was in 1984. She continued to do sex work until she left Sonagachi in 1995 to live as a *grihastabari* (a householder) with an already married man. She had two children with the man, who had a low-paying job in a doctor's clinic, but got bored being a housewife, and feeling the need to earn, she returned to Sonagachi in 1997 to become a brothel keeper. Banu's absence for the two intervening years meant that she had lost the room in Sonagachi for which she had earlier paid a mere month's rent in selami. She now had to cough up a higher selami and rent. Apart from selami and real estate costs, Banu had few start-up costs since

most of her adhiyas had done sex work before. Occasionally, she would lend a new sex worker money for decent clothes. According to Banu, a brothel keeper could start a brothel with 5,000 to 10,000 rupees in hand, excluding the cost of real estate. She herself had started with one sex worker, who was introduced to her by an acquaintance as someone in search of a brothel keeper. She claimed not to traffic sex workers and must have had two hundred adhiyas in the past seven years through word of mouth.

It was hard to estimate how long a sex worker would stay with a brothel keeper. Some stayed for as few as five, ten, or fifteen days; twenty to twenty-five sex workers had stayed for a few months; and three or four sex workers who liked Banu stayed on for two years. Banu's adhiyas were thus free to leave anytime, yet some would return, because the next brothel keeper was not as good as her. Some adhiyas even became brothel keepers themselves, but Banu refused to lend them money for selami payments. After paying 20 percent commission to the dalal, if any, Banu took half of her sex workers' price per shot in exchange for room and meals. When a sex worker developed an STI, she went to the DMSC clinic. Major health problems were rare, for in the past seven years, only two sex workers had required hospitalization, one for an abortion and the other for a stomach tumor. In the latter case, Banu borrowed money from a moneylender for treatment, but the sex worker eventually paid her back. Banu said she advised her sex workers to make sound investments rather than maintaining a lover, because this eventually meant financial ruin, especially if he was a married man. Banu's advice to her sex workers mirrored an age-old Hindi proverb that one wasted one's youth only to cry in old age. Many of her adhiyas saved their money with Banu, although she also encouraged them to save money in the DMSC-run credit cooperative.

At the time of my interview, Banu had four adhiyas. She paid a monthly rent of 10,500 rupees and 30 rupees a day for every adhiya she kept, amounting to 3,600 rupees. She was also responsible for utilities, repairs, and maintenance of the rooms, and a monthly supply of condoms. The rate per shot was 200 rupees. Assuming that each adhiya had two customers on average per night using a dalal each time, Banu would make 600 rupees per night and 18,000 rupees per month. Even in this scenario she would make a profit of about 3,000 rupees after paying for rent (14,000 rupees), food and condoms (1,000 rupees), and electricity charges (200 rupees). If each adhiya instead had four customers a day, which is a more realistic number, Banu's profit would be at least 20,000 rupees. Banu had not been raided by the police, claiming that they raided brothels only when they had information about a minor or criminal on the premises. Banu typically faced one incident of customer misbehavior every month, which suggests that brothel keepers screened potentially abusive customers.

Despite how wealthy Banu appeared, she was worried about her family's survival. The private tutor she had hired for her sons had already appropriated money on the pretext of paying school donations. The cost of her sons' convent

education also added up. For her younger son alone, Banu anxiously confided about the amount that she spent on his appearance, his school bus, his drawing classes, a salary to a male helper who lived in the brothel and took care of him, and daily rent for a room away from the brothel. Banu had no illusions about formal education, for there were many unemployed college graduates from decent families who hawked goods from door-to-door in Sonagachi's brothels. Nevertheless, she hoped that literacy would help her sons do business someday. These were Banu's anxieties in preparing her sons for a respectable life outside Sonagachi while managing her medium-sized brothel to enable this.

#### Adhiya in the Large Brothel

The large brothel operating in the adhiya mode has more than ten sex workers, usually belonging to the A category, and is highly profitable. An indication of this is the fact that the brothel owner no longer manages the brothel but lives a much-desired life of middle-class respectability outside Sonagachi.<sup>7</sup> Unlike a small or medium-sized brothel, the large brothel has a managerial class operating its day-to-day affairs, supported in turn by several salaried male domestic helpers who perform the reproductive labor necessary for sustaining sex workers. Although the brothel owner has to invest substantially in the rooms and the initial setup costs of the brothel, she does not usually traffic sexual labor. Although sex workers may typically stay at the brothel for up to three years, customer demand for novelty makes them move between red-light areas. The brothel occasionally uses dalals, relying instead on a regular customer base. The brothel owner pays the landlord a bribe meant for the local police, who desist from enforcing the ITPA. In effect, from the brothel owner's point of view, sex work involves moderate to high investment, high profits, and moderate legal risk.

For this category of brothel, I interviewed Aparna Das, the owner of a large brothel located in the heart of the AK Street area of Sonagachi. This part of Sonagachi is crowded with broad roads that have food stalls, a hotel, a bakery, a flour mill, a small temple, a jewelry shop, a grocery shop, a barber's shop, and even a cell phone shop. A music shop blared radio music while vendors sold men's accessories on the pavement. Many brothel buildings were numbered and named. A short walk away from the DMSC clinic, as we approached the entrance to the brothel, Prerna, my peer educator companion for the day, gestured to the sports utility vehicle parked outside the brothel entrance. The vehicle belonged to the brothel owner Aparna Das who owned several other vehicles and had built a three-storied building for each of her four sons, according to Prerna. We entered the brothel and Prerna led me past a small empty room to another small room. Seated on the floor was a big woman cutting fish on a blade fitted onto a wooden block. Near the fish were two bags of vegetables to be cleaned and cooked for the day's lunch. Prerna introduced me to Aparna Das as a "visitor" interested in the problems of brothel keepers and sex workers.

As I gingerly sat on a bed in the room, two women were sleeping on an adjacent bed. Two other sex workers were sitting and chatting.

Aparna Das was in her midforties. She was wearing a cotton sari and several pieces of gold and diamond-studded jewelry. She had been a brothel keeper for the past ten years. Before coming to sex work, she was married with four sons when her husband fell sick. Having no money she went to Bara Bazaar (Big Market) where she worked for a trader sorting through and cracking betel nuts. The owner had a room upstairs where he used to make her have sex with his brother and friends for a pittance. When the store was once closed for three months, leaving Das with no income, a sex worker friend suggested that she sell sex. So Das joined a brothel in Chetibaari as an *adhiya*, moving to Sonagachi after a year. Das initially paid a selami of 125,000 rupees for a room in the building where we sat. Four years later, she rented a second room for a selami of 75,000 rupees, and five years later yet another room upstairs for 100,000 rupees. The room where we sat was a rest place for the girls, and the room next door was where the sex workers lined up for customers. The room upstairs was where customers were taken. At the time of my interview, Das paid 20,000 rupees in monthly rent for all three small rooms. In addition, she paid thirteen rupees per day per sex worker, whether flying or resident, to the landlord, even for days not worked. The landlord lived in the building, so Das kept her voice low while complaining about him. She was responsible for room fixtures, room repairs, and upkeep, as well as cable television charges.

Das had ten domestic helpers who she preferred to call “brothers.” They helped with cooking, washing clothes, running errands, and assisting customers. During our conversation, one of Das’s “brothers,” who had gone to drop off a customer at the trendy Park Street neighborhood of Kolkata by taxi, called Das’s *babu* or lover to ask if he would be allowed to take the underground train back since he was wearing only a *lungi* (full-length skirt). The metro operator had reportedly said that he could travel on the metro even wearing underpants. When the girls heard about this phone call, they could not stop laughing and had an opportunity to relive the incident when the domestic help returned and recounted the story to everyone’s amusement. Das said that her brothel did not use dalals or agents regularly since customers were old-timers who knew Das well. The sex workers always engaged in safe sex and paid for condoms themselves, which they bought from the DMSC’s social marketing wing. They also bought their own clothes and cosmetics. Das did not pay the police any *hafta* (bribe), instead directly paying the landlord an amount that he passed on to the police.

Das employed twenty-five to thirty sex workers. Some were flying sex workers and the rest lived there. She did not keep any minors and, surprisingly, her sex workers all looked older and were in their late twenties and thirties. They were not the prettiest, nor were they slim, and they wore saris rather than more trendy Indian or Western clothes. When the women developed STIs, they went to the DMSC clinic or to the government hospital for free treatment. They were

not expected to entertain customers when they were sick. In case of a major illness, some sex workers went to their hometowns, and Das lent them money for medical expenses. One of the sex workers, asleep when we first entered the room, had been sick for three months, but Das nursed her back to good health. Das maintained that there had been no instances of rape by customers. When I asked her about the longest period an adhiya had worked for her, she replied, "three years." Although she ran a whorehouse, Das claimed that she had gained a reputation for the wealth she generated and her fair treatment of sex workers, which is why every sex worker at her brothel left as a rich woman. Riya, one of the sex workers sitting in the room, chimed in to say that Das was like an aunt. By now, the other girls who were sleeping had gotten up. They all burst into laughter at her comment. Das, pointing to Riya, said that she made a decent 30,000 rupees a month.

Das's brothel charged 160 rupees per shot for half an hour, 260 rupees for one hour, and 650 rupees for an eight-hour night shift. Customers were also allowed a grace period of ten minutes, and any extra time over that incurred a 160-rupee charge. Most customers visited Das's brothel during the day. Many of the sex workers in this brothel were flying sex workers, so they stayed only between 11:00 AM and 6:00 PM. In fact, when we were talking, a flying sex worker came into the room, applied makeup, and sat in the room next door. The rest of the sex workers were resident in the brothel. Soon Das, who came to her brothel every morning to help with the cooking and to collect the night's earnings, prepared to leave for her own home in Baguiati, leaving her lover, or babu, a writer who lived there, to manage the brothel.

After Das left, I thought I would have to leave as well, but two of the sex workers, Riya and Sita, wanted to continue our conversation. Sita was thirty-eight and from Digha, a seaside town in West Bengal. She had two daughters and came to sex work through a sex worker friend after her husband deserted her. At the very outset, Sita had wanted me to shut my bag for fear of being photographed by a hidden camera. Riya was only twenty-six years old and had two young daughters. Sita and Riya told me that they preferred other work but did sex work to support their children. Riya's reasoning was that she had lost her *izzat* (or dignity) anyway, so she intended to leave after three years with enough savings to run a phone booth or photocopy shop. Meanwhile, Sita had been in sex work for thirteen years and had bought a house, a car, which she rented out, and had saved enough gold jewelry and money for her daughters' weddings.

At one point, when none of Das's "brothers" was around, Riya whispered to me that although Das claimed to pay them half the amount they earned, she actually paid them far less. So where Riya should make 30,000 rupees a month, in reality she got only 10,000. When I started probing into this further, another of Das's "brothers" appeared and was introduced to me, and while he wondered how my work would benefit the sex workers, Prerna, the DMSC peer educator, kept nudging me to leave. As I said good-bye to Riya, Sita, and the three other sex workers in the little room, we passed the other room that Das rents. It had

two beds and about ten women milling about, applying makeup and watching TV. Then Murali Das, the “manager,” as the girls call him, invited me into the room. Opening his little five-by-seven-inch notebook, he showed me his daily accounts, where in extremely neat, almost printlike handwriting, he had written the amounts sex workers earned and were paid. The top two-thirds of the page had the following columns:

Time	Name of Girl	Which Room	Payment by Customer
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The bottom one-third contained the following rows:

Name of girl
How much she was paid post-deductions

That morning alone, two sex workers had worked overnight, earning 780 rupees each instead of the 650 that Das had mentioned for an overnight sex work transaction. Das’s manager also showed me his breakdown of the 260 rupees earned per hour. Ten rupees were deducted to pay domestic help and 25 rupees for rent against Das’s figure of 12 rupees. Of the remaining 225 rupees, Das took 160 and the sex worker was paid 65. Das also charged 25 rupees a day for lunch. Prerna clearly wanted me to leave by now, so I asked Murali Das one last question about the number of customers the brothel had had the night before. Das flipped his notebook to the previous day, and the number 84 was written neatly in the top right-hand corner. Assuming that the brothel has twenty-five adhiyas, each sex worker entertains just under four customers a day/night on average, for which she is paid a total of 260 rupees. Her total income per month is 7,280 if she works for twenty-eight days a month. Das, on the other hand, makes 160 per transaction, so at the daily rate of eighty-four customers, her daily income is 13,860 rupees. Given that her monthly expenditure amounts roughly to 65,000 rupees, Das could recover her monthly expenses in a week’s time. Although my eyes were glued to the manager’s notebook and he was quite willing to continue talking, Prerna literally pulled me away, because she was worried for Riya and Sita’s safety about whom other sex workers may complain to Das, especially since they had revealed their true monthly income.

■ Self-Employed Mode of Organization of Sex Work

The third mode of organization of sex work in Sonagachi is where a sex worker operates for her own account and appropriates the entire income from her sexual labor. There is no labor relationship here. Self-employed sex workers generally prefer not to use a dalal and have been known to throw out exploitative dalals in other Kolkata red-light areas (Sleightholme and Sinha 1996, 94). There are three further categories of functionally independent sex workers based on the nature of their tenancy interest in Sonagachi’s real estate market. The first category is the flying sex worker, who does not reside in Sonagachi but visits



on a daily basis for sex work. A high percentage of flying sex workers are wives; some are street-based sex workers who, tired of the harassment they face elsewhere in Kolkata, prefer Sonagachi, where there is security in numbers (ibid., 12) and prospects for a higher rate per shot. Others are lower-middle-class and middle-class housewives who work as *adhiyas* in high-end Sonagachi brothels. The second category of self-employed sex workers is the residential sex worker who rents her room from a tenant who has paid *selami* or a premium for the right to sublet the property, and who has a secure tenancy interest in the property. This tenant or lessee (*vis-à-vis* the landlord) has no functional role in the sex business. The third category of self-employed sex worker resides in Sonagachi and, having paid a premium for the right to rent her own room for sex work, has a secure tenancy interest in the rental property. I describe each of these categories of sex workers in the ascending order of the security of their tenancy interest. I will elaborate on the tenancy relation later in the chapter.

### The Flying Sex Worker

A self-employed flying sex worker does not reside in Sonagachi, but rents a room whenever she visits, either directly from the landlord or from a brothel keeper. Both the sex worker and landlord benefit considerably from this arrangement. The landlord earns more from renting out a room on a daily or even hourly basis without having to deal with a regular tenant's demands. The sex worker, on the other hand, passes on her rental costs to her customers and is not tied down by a lease, allowing her mobility to work in different red-light areas, and can better manage the risk of police enforcement (Sleightholme and Sinha 1996, 11). Finally, the self-employed flying sex worker has more security in Sonagachi than other public places where street-based sex workers operate. Her risk of being apprehended by a policeman is lower in Sonagachi than in a public place, but is higher than it is for a brothel-based residential sex worker. She is likely, after all, to solicit on the main road bordering Sonagachi, which is subject to major sweeps by the police. Whether the high customer footfall in Sonagachi means increased income due to overall increased demand compared to the other sex markets that she works in or decreased income due to competition from other sex workers is unclear. Yet this submode of organization involves low investment, moderate profits, and low legal risk (Gonzales et al. 1999).

### The Self-Employed Sex Worker under a Lessee

In this case, the sex worker rents a room from the lessee of a rental property with no functional role in the sex industry. The sex worker is unable to pay the high premium for the right to rent a brothel room directly from the landlord and gain relative independence in the tenancy relation. At the same time, she does not want to relinquish control over her income and conditions of work by



working as an *adhiya*. Instead, she pays a lessee landlord rent and money for food and maintenance. Her investment in a room is relatively low, and she is locally referred to as renting a room on “contract.” A self-employed sex worker living with a lessee has complete functional independence and may therefore agree to a lower rate per shot than lose a customer. This is unlike working as an *adhiya* with less room for negotiation because the income has to be divided between the sex worker and brothel keeper. Self-employed sex workers may also travel outside Sonagachi and Kolkata through an agent to do sex work, although most prefer the security of working in Sonagachi to the higher earning potential outside. Since she is the only sex worker in the brothel, there is a low risk of enforcement of the ITPA. Hence, for a self-employed sex worker working under a nonfunctional lessee, sex work calls for low investment, moderate to high profit, and low legal risk. Trishna was one such self-employed sex worker who Radhika, a DMSC peer educator, introduced me to.

This time, as on other occasions, as I left the DMSC-run Palatak clinic to go to Trishna’s brothel, we passed by BB Mondal, the only licensed liquor store in the area. From any of its open windows, even during the day, would emanate the loud buzz of hundreds of customers milling about drinking, smoking, and talking loudly. Although too dark inside for any visibility, the smell of liquor was palpable, even from where I stood. Nearby were the shuttered doors of an unlicensed store that the police had shut down. We made our way through Sonagachi Lane, a short lane in Palatak with brothels on both sides, until we came to a building where Radhika introduced me to a lessee landlady, the mother of a DMSC peer educator. She was short and thin, and, having just bathed, was engrossed in saying her prayers. The room was all of two-hundred-square-foot big, with two beds on either side of the room. Lying on one bed was Trishna, the sole sex worker, who rented the space on a “contract” basis. On Trishna’s side of the wall was a built-in shelf with her cosmetics. Beneath her bed was her food for the day, which included fish and rice. On the other side of the room was a slightly wider bed where the landlady and her daughter slept. Under their bed was vegetarian food without salt or onions, as they had performed a *puja* (religious ceremony) that day. Since the landlady was a devout lady, the walls were filled with pictures of various Hindu deities. There was a small TV on a table, under which were four piles of neatly folded clothes. There were strings that ran through the room with clothes hanging on them. There was a window near the landlady’s bed through which we heard the neighbor’s radio playing loud Hindi music. Outside the room was a cooking gas range kept under lock and key. Adjacent to the door was a small closetlike area on the outside where the landlady’s son slept. He worked during the day, and apart from a short break at home, spent his evening at the local club.

Although I was there to meet the landlady, she flitted in and out of the room, running her errands and finally sitting down to an embroidery project. She did not utter a word throughout our conversation while Trishna, who was resting when we arrived, was eager to speak to me and Radhika, and was highly

articulate. Trishna was twenty-two years old when I met her. She was from the neighboring state of Orissa and had been trafficked into Sonagachi four years ago by a village acquaintance. Her parents were extremely poor so she did not receive much formal education. Trishna guesses that her trafficker was paid 2,000 rupees, although the Gujarati brothel keeper who bought her claimed to have paid 20,000 rupees. Trishna worked at a high-end brothel, where she did not publicly solicit, and picked up Hindi in the process. After six months, she was allowed to visit her parents, who lived in a village without even electricity. Trishna had become used to having a fan and TV and found it difficult to stay back in her village. Besides, the only skill she possessed was sewing, and money in sex work was good. Having come to Sonagachi, she reasoned that she might as well make the best of being there. So when Trishna returned, she decided to work as an *adhiya* and eventually rented her own room on “contract.”

Trishna had a brother and a younger sister. Her brother worked in a Kolkata shoe factory attaching soles to leather uppers. He and Trishna visited each other often. Their younger sister was not well educated, and Trishna hoped to get her married. Trishna's parents thought she was married to a wealthy man and did not know that she did sex work. Whenever she visited her village, her lover accompanied her, posing as her husband. He was a married man who visited her every afternoon and at least once a week as a paying customer with his wife's knowledge. Trishna occasionally bought gifts for her lover's family but was reluctant to call him a *babu* or “fixed customer,” which is the colloquial term for such affective arrangements in Sonagachi, because she felt that they did not support each other financially.

Until before the monsoons when customer numbers drop in Sonagachi, Trishna claimed to earn 2,000 to 2,500 rupees a day. Some days she had ten customers and on other days only one. When I mentioned my interest in the economics of sex work without asking how much she earned, Trishna used an approximate monthly figure of 25,000 rupees. Sewing in a garment factory, on the other hand, would have paid her a maximum of 4,000 rupees per month. She paid the brothel keeper a daily rent of 100 rupees and an additional 30 rupees for food. Her only other major expense was the 400 rupees that she spent monthly on a cell phone. She also admitted to making impulsive purchases of cheap jewelry or clothes from vendors visiting the brothels and later gifting it to girls in her village. Sex workers made such purchases, she said, after watching actresses in Indian TV soap operas. The daughter of the landlady, a peer educator, chipped in to say that since they never really left Sonagachi or traveled too far outside it, they had no idea if vendors were selling overpriced goods. Assuming that Trishna earned 25,000 rupees a month, her expenses were approximately 5,000 rupees. She saved her money in the DMSC's credit cooperative and had been able to buy land in her village, construct a *pucca* building there, and pay for an electricity connection. She was also saving money for her sister's marriage.

Trishna did not solicit publicly and had a regular clientele, including judges, advocates, and other professionals who she managed using a cell phone. She

refused intoxicated customers who made unreasonable demands and were more likely to engage in a brawl. She herself avoided alcohol unless she had absolutely no choice. She bought beer from the liquor shop or from the landlady and sold it to the customer for a higher price, keeping the profit. Similarly, when her own room was occupied she would rent a room in a nearby brothel but charge the customer twice that amount. Trishna thought that policemen were the worst customers. Once when she refused a policeman's request, he displayed his police badge to ask if she even knew who she was refusing. Trishna responded that he may have the authority of his uniform outside the brothel but once he had crossed its threshold to her room, he was like any other customer. Moreover, she retorted that she was not his wife who could be ordered around to satisfy his demands. Trishna said she would respond to his request like his wife, which the policeman sheepishly admitted would have been to hit him with a broom. Just because she was selling her body for a short time did not mean that a customer could do whatever he wanted. She was also a human being and had some *izzat*. By the same token, Trishna said she was not like other sex workers who agreed on a certain price at the brothel gate and doubled it inside the room. She had her principles and she stuck to them.

Trishna had not faced arrest in her four years in sex work, although she worked both within and outside Sonagachi. Apart from entertaining customers in her room, Trishna visited a nearby brothel whenever the owner called on her. She had also traveled outside Kolkata for sex work "on contract." Once she went to Banaras, a pilgrim town in Uttar Pradesh with a lucrative sex market on a fifteen-day contract but came back within six because she disliked her predominantly Sikh clientele. She was paid 6,000 rupees for those six days. Similarly, she was discerning of offers by dalals who tempted sex workers with a fixed pay of 600 rupees a night if they went to lodges, guesthouses, and hotels in Kolkata. Trishna found that after paying the dalal and the owner, she earned the same amount as she would have in Sonagachi. Also, she felt safer in her room, because if a customer misbehaved, other women would help her, unlike in guesthouses and hotels where she would be at the dalal's mercy. I asked Trishna if she wanted to eventually rent her own room. She responded that the selami alone would be between 80,000 and 100,000 rupees, and buying a room would cost at least 200,000 to 300,000 rupees, neither of which she could afford, unlike some Agrawalis who made 10,000 rupees a day. I asked Trishna about her financial goals. Conceding that human greed had no bounds so other desires could soon crop up, she said that for now she wanted a roof over her head and a car. Since she already owned a house in her village, she estimated that she had to save 10,000 rupees for a down payment on a car. When I asked her what she would do as she got older, she said she had not really thought about it, at which point Radhika, the peer educator, interjected to say that sex workers had no retirement age. When I visited Sonagachi in 2006, I heard that Trishna had recently delivered a baby girl.

### The Self-Employed Sex Worker Tenant

The final category of self-employed sex worker rents her own brothel room. She is in charge of her work conditions, as she retains the entire payment per shot and has the flexibility to work according to her need. Invariably, she would have started out as a *chhukri*, who then became an *adhiya*, and has finally saved enough money to pay the requisite premium for the right to rent a brothel room, colloquially referred to as *selami*. She typically pays a maid to perform domestic duties. She is also likely to have a lover (*babu*) because unlike an *adhiya*, she has her own private living space. This category of sex worker also makes a moderate to high investment in real estate. Returns from sex work are also moderate, relatively speaking, since she earns more than the street-based sex worker or the *adhiya* in a medium-sized brothel, but perhaps less than an *adhiya* in a large brothel. The risk of enforcement of the ITPA is low.

Many of the self-employed sex worker tenants I met lived in the Sethbagan part of Sonagachi, an area named for the *seths* or wealthy aristocrats who lived there in precolonial times. To reach Sethbagan, Mitra, the DMSC field supervisor for the area, and I had to negotiate a maze of narrow lanes that led off from Central Avenue, a stop on Kolkata's only underground train line. On our way to Sethbagan I was struck by the number of voluntary associations or clubs offering a range of welfare services. Political parties like the Tirnamool Congress (youth section) and the Bharatiya Samajwadi Party (Indian Socialist Party) also had small offices in the neighborhood. As we walked through the lanes, I noticed homes that housed a printing press machine or a book-binding business alongside shops of petty traders and food vendors. Finally, we reached Sethbagan. Sethbagan consists of a long lane of old houses, one part of which has sixteen brothels. On both sides of the narrow lane were open gutters. There were plenty of stray dogs, curled up as they slept. We saw some children, even older ones, hanging around during school hours. Each building looked like an old house with a courtyard in the middle surrounded by rooms on all four sides. Most buildings seemed to have only a dark and dingy ground floor. Although buildings were so run-down that the area resembled a slum, residents had electricity and water. Inside most buildings, there were clothes hanging everywhere, children running about, buckets of water precariously perched, women wearing nothing but a sari petticoat tucked under their arms and washing clothes, open stoves with big cooking vessels, men peeling shrimp, and, above all, a stench that pervaded the atmosphere. The rooms were very small and dark, and fluorescent tube lights had to be turned on during the day. Rooms were also constantly damp, and pulmonary tuberculosis was quite common among sex workers. There was typically only one toilet for the use of all building residents.

Meeta, the first self-employed sex worker tenant I interviewed, was from the central Indian state of Madhya Pradesh. The oldest of four children, Meeta

unlike her brothers, received no formal education, and her parents promised her in marriage when she was three years old. At sixteen, she was married to a sexually abusive man. Soon, back at her parents' home, a neighbor, who she called *chacha* (uncle), offered to take her to his daughter's house in Kolkata but instead left her at a tea stall in Kidderpore, a red-light area, despite her pleading to be taken home. Two women kept Meeta in a house for six months until she gave birth to a baby boy. Soon, the owner, herself a sex worker, made Meeta sell sex, beating her when she refused, claiming to have bought her for 60,000 rupees and spent 200,000 rupees on her maintenance. The owner had her lover's mother take care of Meeta's son, whom Meeta could see only once a week.

The owner gave Meeta no money and provided the brothel's sex workers only one daily meal. The police were bribed in case of raids. Customers would wait in line outside the area's brothels. Meeta was raped several times by physically abusive customers. Sex workers in the brothel were not allowed to talk to each other and were beaten if they even laughed. A security guard outside the brothel ensured that they did not escape. From customers, Meeta learned that there was a police station nearby, but when she threatened to complain to the police, the owner retorted that she would hurt her son. Once when Meeta's son was with her because he was ill, they tried to escape with a customer's help but were unsuccessful and were beaten by the owner. The next time, the same customer sent a friend to help Meeta. The owner was very sick, and in the absence of her lover, a hooligan, Meeta and three other sex workers escaped the brothel. The phase of Meeta's life as a *chhukri* thus ended.

Meeta and her friends stayed in the Kidderpore mosque after their escape. Since Meeta felt that she could not go back home, she decided to continue doing sex work. The customer who helped rescue her took her to Kalighat, another red-light area where he set her up to work as an *adhiya*. He soon became unemployed, demanded money from Meeta, and wanted her to send her son to her parents, which she eventually did. Yet, when she once found him squandering away her money on other women, she left him with the help of another customer and came to Sethbagan, where a woman gave her shelter. In Sethbagan, Meeta became independent by paying a *selami* of 18,000 rupees for a room with a monthly rent of 800 rupees. At the time of my interview, Meeta had been in Sethbagan for eight years. With her savings from sex work, she had constructed a house in her village for her family and financially supported them. Meeta saw customers as her window to the world. In fact, one of her customers became her lover, and in the seventeen years that she has been in Kolkata, she claimed that he was the only man who understood her, unlike other men who either wanted her body or money. With her son now a teenager, Meeta was eager to marry her lover and leave sex work to manage a store.

Another sex worker who traversed a path similar to Meeta's was Anita. She was thirty years old, a member of the DMSC, and was, like Meeta, from Madhya Pradesh. She said she was in sex work not by force or deception but because of her economic circumstances. She came from a poor Brahman family with three

siblings and had had no formal education. Anita's marriage was arranged as a child, and she was formally married at the age of twelve to a wealthier and older man whose family owned a hundred *bighas* of land.<sup>8</sup> Giving birth to a son provoked harassment from her sisters-in-law, who viewed him as an heir to the family property. Anita soon returned to her parents' home. Three years later, she became friendly with the husband of a girl from her village who lived in Kolkata. He promised to find her a job, so she left without her parents' knowledge and without her son. He instead brought her to his home in Kidderpore and made her entertain customers, beating her when she refused. She soon realized that his wife was also a sex worker and that the other girls in the brothel had also been forced into sex work. They advised her that if she escaped, in an unfamiliar city, she might be sold again and her child would suffer. A few days later, Anita started sex work as an *adhiya* and had been in the "line" for twelve years when we talked.

While working as an *adhiya*, Anita fell in love with a well-educated customer. She lived with him for three months but, unable to bear the constant taunting from his relatives, left him. She told a taxi driver to take her to a red-light area. He brought her to Sethbagan. Anita paid 12,000 rupees as *selami* for her room, where the monthly rent was 750 rupees. She had her own electricity meter and owned a color TV, a fan, and two cell phones. Early on, Anita lent 35,000 rupees to her brother, whose business now supported her family. With her savings, she had bought five *bighas* of land on which her family had constructed a house. She saved her money at the bank instead of the DMSC-run credit cooperative. Her family did not know she did sex work, thinking that she was married to her lover, who accompanied her on her visits home. Unlike other sex workers, Anita did not have two names because she wanted her son to know her only by her real name and to enable her family to trace her in case of an accident.

Anita solicited customers in the afternoon but was far busier in the evenings. She viewed herself as being on call twenty-four hours a day. She charged between 200 and 300 rupees for an hour but was often willing to accept less than usual since she kept the entire payment from the customer. On a good day, she had four to eight customers. She had many fixed customers who typically visited once or twice a month. For the past two years, Anita had been making appointments with customers by cell phone. At other times, she waited at the gate of the brothel, soliciting customers. She observed that business had been very bad of late in Sethbagan, and sex workers there were struggling. Anita was not threatened by younger sex workers because she viewed personality as being on par with youth. Moreover, customers had varying needs. They also treated her differently; some empathized with her compulsions to enter sex work and paid her only for her company. Yet others were physically and verbally abusive. Still, she had not been raped by them so far. If a customer became violent, she said the DMSC would counsel him, but if he tried to rape her, her neighbors would beat him up. Although sex work

in Sonagachi proper appeared trendier and more lucrative than Sethbagan with its older sex workers, Anita was not willing to wear revealing clothes to work in Sonagachi. Her lover had told her that she may be in the “line” but she still had *izzat* and that she should dress accordingly. Anita was doubtful of her prospects for alternate employment given the stigma of sex work. Also, although Anita admitted to wanting to marry her longtime lover, as a Brahman she believed that one got married only once. In any case, she did not expect to be in sex work for long and was already spending substantial periods of time in her village.

### ■ Relational Dynamics of the Brothel: The Tenancy Relation

Tenancy practices are the single-most decisive factor in the economics of Sonagachi’s sex market. Landlords in Sonagachi are either from West Bengal or they are Agrawali. The landlord’s background determines the ownership profile of the red-light area, the physical condition of the brothel buildings, the tenancy practices there, and whether the landlord plays a functional role in arranging the sex work transaction. *Agrawali* landladies tend to predominate in the AK Street area, and ownership patterns there also seem less fragmented. To illustrate, of its sixty buildings, eleven are owned by one Agrawali, who has since sold three of the buildings. On average, each Agrawali is said to own one to three buildings, each costing roughly fifteen lakh rupees or approximately \$30,000 USD. Of the thirty-odd landlords there, only five or six reside in the building. Indicating the wealth of Agrawali landladies, three of the buildings in the AK Street area were undergoing extensive renovations when I visited Sonagachi in 2006. The layout of these buildings is also quite different from brothels in Palatak and Sethbagan. Amid the squalor of Sonagachi, the buildings of the Agrawalis always seemed aloof, with their balconies covered entirely with metal grills. On the occasion that I visited one such building, it had roughly twenty bright rooms in contrast to forty to fifty rooms elsewhere in Sonagachi. Moreover, the rooms had the aesthetic of a middle-class Indian home.<sup>9</sup> Unlike Bengali landlords, Agrawali landladies play a significant functional role in Sonagachi’s sex market as brothel owners, brothel keepers, and traffickers of *chhukris*, and are perceived by Bengalis as intensely materialistic.

Most landlords in Palatak tend to be Bengali with a sprinkling of Agrawalis. Ownership of buildings in these parts is fragmented. A landlord will typically own a two- or three-storied brothel building with between five and fifty rooms, each room being occupied by more than one sex worker. Landlords here are resident, with 70–80 percent involved in the day-to-day functioning of brothels. Their role tends to be ancillary rather than functional and depends on whether the landlord resides in the building or elsewhere in Sonagachi or Kolkata.<sup>10</sup> In most parts of Sonagachi, however, landlords are nonresident and manage their properties through caretakers and collection agents. These



landlords either lease out the property directly to sex workers, to brothel keepers, or through subtenancy arrangements. Figure 2 illustrates the typical tenancy practices in Sonagachi.

#### Renting upon Payment of Premium

There are three types of tenancy arrangements in Sonagachi. In descending order of the security of the sex worker's tenancy interest, these arrangements are where (1) the tenancy interest is based on payment of a premium for the right to rent (*selami*); (2) the tenancy interest is based on payment of a deposit and rent on a daily, weekly, or monthly basis, also referred to colloquially as renting "on contract"; and (3) the tenancy interest is based on payment of rent per sex work transaction, locally known as renting on "commission." The predominance of any one type of tenancy arrangement varies within different parts of Sonagachi. Renting on payment of *selami* is more common in Sethbagan and Palatak and less common in the AK Street area. Landlords are also less likely to directly rent out rooms to flying sex workers on contract or on commission in the AK Street area when compared to Palatak. Even in Palatak, renting on commission is restricted to a few buildings that are known to have flying sex workers. The right to rent upon payment of *selami* is the oldest, most popular, and most secure of the tenancy arrangements in Sonagachi. I will detail each tenancy arrangement and demonstrate how sex workers' stakes in Sonagachi's real estate market vary dramatically.

Kolkata's real estate market, like that of other Indian metropolitan cities, has been subject to waves of rent control legislation starting in 1920. In 1956, the state of West Bengal passed the West Bengal Premises Tenancy Act, which sought to protect the rights of tenants against arbitrary eviction and exorbitant rents. Commentators suggest that the 1956 Act, for reasons typically attributed to urban rent control laws, "became a major factor in retarding housing development in the city" (Ramaswamy and Chakravarti 1997, 65). Many of Sonagachi's tenants are protected under the 1956 Act, with some paying a monthly rent of twenty rupees, fixed back in the 1960s. Even so, each brothel building has a high number of tenants who typically rent no more than one room, so the monthly rent is unlikely to cross the rent threshold for controlled properties under the 1997 West Bengal Premises Tenancy Act, which replaced the 1956 Act. The rent threshold is 6,500 rupees for *residential* purposes and 10,000 rupees for *commercial* purposes—whether letting property for use as a brothel is one or the other is unclear. Interviews with older sex workers suggest that rent was the only payment that tenants made to the landlord in the 1970s and 1980s. However, as statutory revisions to the rent levels could not keep up with market prices, landlords began to recover the appreciation of their properties by requiring tenants to deposit a premium, locally referred to as *selami*.

*Selami* could be defined as a onetime payment, payable either as a lump-sum amount or in installments at the landlord's discretion, but in either case



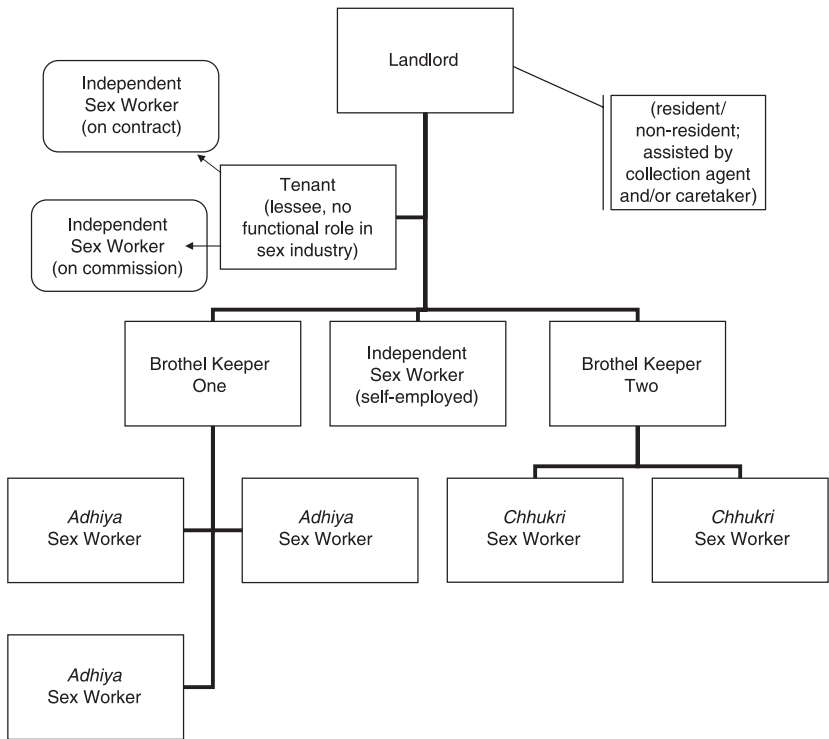


Figure 2. Typical tenancy arrangements in Sonagachi

payable by the tenant to the landlord as a premium in exchange for the right to rent the property for a controlled rent.<sup>11</sup> The Kolkata high court in *King v. Earl Cadogan* (1915) understood selami (which has been in existence at least since colonial times) as “a cash payment made to the lessor, and representing, or supposed to represent the capital value of the difference between the actual rent and the best rent that might otherwise be obtained” (Judge Warrington 1915, 492, cited in *Sarkar Bros. [Properties], Ltd. v. Anil Kumar Dutta* 1952, 102). Judge Ridley, in the same case, construed selami as a premium or a consideration passing in lieu of rent from the tenant to the landlord, generally speaking upon the grant of a lease. In a sense, it is capitalized rent, something that is payable, not as an annual rent, but as a payment to take the place of part of what otherwise would be calculated and paid as an annual rent (*King v. Earl Cadogan* 1915, cited in *Sarkar Bros.* 1952, 103). Such payment practices for the right to rent exist in other Indian urban land markets, although known by other local terms. Selami is also prevalent in other parts of Kolkata and is therefore not unique to its red-light areas.<sup>12</sup> In fact, selami is not purely a creation of rent control laws. Selami is said to originate from a feudal system of tenancy arrangements where it signified more generally a payment payable by peasants to their *zamindars*

(landlords) for the right to perform a certain activity, ranging from the right to cut trees, mortgage land beyond a certain time, transfer lands without permission of landholders, build concrete structures, and dig tanks and ponds (Asiatic Society of Bangladesh 2006). Law lexicologist Ayer, for instance, defines selami as “a free gift made by way of compliment or in return for a favour” (cited in *Sarkar Bros.* 1952, 102). Selami is illegal under both the 1956 and 1997 West Bengal Premises Tenancy Act. Under Section 14 of the 1997 Act, any demand for premium or any sum in cash or in kind in excess of the rent and receiving or paying any sum exceeding one month’s rent in advance are prohibited. In fact, the introduction of a 50,000-rupee fine by the 1997 West Bengal Premises Tenancy Act for violating Section 14, which was not in the 1956 Act, suggests that the prohibition against selami in the 1956 Act was ineffective and that it persisted into the late 1990s.

Typically, the selami payable by a tenant in Sonagachi is a function of her point of entry into its real estate market. Sex workers I interviewed said that even twenty years ago, selami equaled one month’s rent. Today, however, selami can range from between twelve to one hundred times the monthly rent. At the brothel of Aparna Das, the selami for a room in 2003 was double the selami for a room twice its size in the same building in 1993. Once a sex worker exits the brothel rental market, she has no future claim on the right to rent it at the old rent or selami and will be charged the market rate for both selami and monthly rent at reentry. The need to pay selami is closely related to a sex worker’s functional independence in sex work. A sex worker who escapes from being a *chhukri* quickly realizes that she cannot afford to pay selami for a secure tenancy and therefore works as an *adhiya* or a self-employed sex worker on contract until she has saved enough for this payment. Selami in this sense acts as a barrier to independent sex work. Once a sex worker pays selami for a secure tenancy, she is likely to either continue in self-employed sex work or run a brothel with *adhiyas* or *chhukris*, or rent out her room to other sex workers as a lessee. Irrespective of the use she puts the property to, she, for reasons well articulated by critics of rent control laws the world over (Dev 2006), is unlikely to vacate her property. Unless she decides to have nothing to do with the sex industry, other additional push-and-pull factors unique to the sex industry reinforce this decision. Moving to another Kolkata neighborhood essentially means forfeiting selami paid in Sonagachi and paying selami anew. However, Kolkata’s tenancy culture is extremely hostile toward single women, as I had opportunity to experience when locating rental accommodation. Therefore, no sex worker in any other residential part of Kolkata can have several unrelated men visit her on a daily basis without arousing suspicion and possible police action.

Under these circumstances, the transaction costs of moving outside Sonagachi are particularly high, and there is considerable risk. Pull factors include the customer foot traffic in Sonagachi, which is much higher than anywhere in Kolkata. Moreover, a room in the red-light area ironically provides a sex

worker with security against abusive customers and police raids. Dalals and brothel keepers screen abusive customers who are likely to cause trouble and step in if the customer becomes unruly (Dell 1999, 103).<sup>13</sup> A sex worker does not have to explain to a landlord or a brothel keeper what to do in case she is arrested in a brothel raid (Sleightholme and Sinha 1996, 11). Even in less dramatic circumstances, renting on payment of selami offers the most legal protection against eviction and assures the landlord's support in disputes with external stakeholders, when compared to other tenancy interests. Meanwhile, given the high threshold to a secure tenancy and independent sex work, *chhukris*, *adhiyas*, and self-employed sex workers without secure tenancy rights are always on the lookout for those with secure tenancies. Hence, despite the poor living and working conditions in brothels due to deterioration and neglect by landlords of their controlled properties, falsities in their accounts, overpriced rent,<sup>14</sup> and poor levels of amenities and utilities, sex workers with secure tenancy rights continue to stay in Sonagachi, sustaining a strong demand for properties there.

The demand for rental properties in Sonagachi is not lost on landlords. I learned this when I interviewed the landlord of a brothel building on Central Avenue across the road from Sonagachi. Let us call him Madhu Kumar. Although he continuously deflected my questions to him toward the DMSC peer educators who introduced me to him, his sophistication in property matters was remarkable. When introduced to Kumar I asked him if he spoke Hindi. He replied in English. An English-speaking landlord! My first question to him was about selami. He said it was illegal, and while I waited, he appeared with a new copy of the 1997 West Bengal Premises Tenancy Act, which he insisted I keep. He also brought along his receipt book to show me receipts that he issued to sex workers for refundable deposits on behalf of a trust estate in his family's name, which had owned the building since 1939. He claimed to have had twelve tenants over the past twenty years. As we sat talking in a room that was all of forty square feet, I asked him about liquidity in Sonagachi's real estate market and whether landlords sold their properties at all. This was motivated by anecdotal reports of gentrification in at least one other Kolkata red-light area and the sight of a multistoried building development project going up on Central Avenue not far from the entrance to AK Street. The DMSC peer educators looked at me like I had asked a most preposterous question. One of them asked me bluntly, "Why would one eat if one were not hungry?" Quite simply, why would one sell property in Sonagachi when there was no need to? *Grihastabaris* (householders) may sell their properties to developers but not owners of brothel buildings.

Not only that, given a chance, *Agrawalis* with capital at their disposal seemed eager to buy properties in the vicinity of Sonagachi, especially from *grihastabaris*, as this would make their brothel management more efficient. If *Agrawalis* were not interested, then field supervisors pointed out that service providers like doctors were keen to rent properties to set up private clinics to cater to A category sex workers. The only stakeholders who might have

obstructed this creeping expansion of the red-light area were grihastabaris. But even they were not organized into a resident welfare organization and needed the DMSC's local support. In one instance, a local club owner had recently shut down a day care center operated by a resident, so she approached the DMSC to counter this bullying. At other times, residents complained that they were mistaken for sex workers or customers during police sweeps in the area. But sex workers and landlords in Sonagachi were confident that outsiders would not purchase property there, as they had no knowledge of the inner workings of the sex industry and would therefore be unable to realize its full income potential.

Returning to sex workers' secure tenancy rights, aren't their economic values undermined by the illegality of the rental arrangement from which presumably no legal rights flow? First, the tenancy relation is prohibited under Section 3 of the ITPA. Second, because the object of the contract is against public policy, it would be void under Section 23 of the 1872 Indian Contract Act. Third, the right to a secure tenancy upon payment of selami violates Section 14 of the 1997 West Bengal Premises Tenancy Act. Further, given the strong demand for rental properties in Sonagachi, what prevents landlords from routinely evicting sex workers after collecting selami from them? Some landlords, with the help of local goons, have done exactly this (Gonzales et al. 1999). Yet this is a far less regular phenomenon in Sonagachi than one might expect. What accounts for such landlord restraint?

In examining possible explanations, I will address here only the implications of the illegality of the tenancy relation under private law, namely, the 1997 West Bengal Premises Tenancy Act and the 1872 Indian Contract Act, and will postpone discussion of the ITPA to a later section on the enforcement practices of the police. We can assume for the time being that due to the criminalization by the ITPA of all three relational dynamics of brothel-based sex work in Sonagachi, there is a symmetry in the risk of illegality such that whenever either the landlord or the sex worker asserts his or her rights in the tenancy relation, they are both exposing themselves to potential prosecution under the ITPA. This puts in place a default preference for informally resolving contentious issues and disputes without invoking the state machinery. This works well under conditions of *de facto* decriminalization where the police effectively do not enforce the ITPA in Sonagachi regularly, thus creating an atmosphere of apparent abeyance of the criminal law in the shadow of which internal stakeholders negotiate with each other.

The first explanation for landlord restraint in evicting sex worker tenants once they have paid selami is economic. Sonagachi, unlike most other Kolkata red-light areas, is almost exclusively populated by brothels with little diversification of the tenant pool. Since sex work is illegal and stigmatized, commercial establishments other than those that service the sex industry are reluctant to set up shop in Sonagachi. Moreover, the Kolkata real estate developers I interviewed explained that few buyers from outside the sex industry were interested in buying property in Sonagachi and North Kolkata more generally, due to

fragmented land ownership patterns, the small parcels of land on which properties were set, the heavily tenanted nature of the properties, the poor quality of properties themselves, and the fact that they were often subject to litigation by Hindu joint families. Hence, a landlord in Sonagachi is effectively operating in a closed real estate market with little hope of renting his property to commercial tenants other than sex workers and brothel keepers. Hence, sex worker demand for rental properties in Sonagachi is matched to some extent by the landlord's need for tenants like them. Against this backdrop, landlord restraint is explained by the reputational costs of landlords' behavior. After all, repeated evictions by the landlord of sex worker tenants will lead sex workers to avoid paying him a substantial selami for a room, resulting in a low occupancy rate, which is problematic in a rental market like Sonagachi.

The second significant reason for landlord restraint can be found in the formal legal rules of the 1997 West Bengal Premises Tenancy Act, which specifies very limited grounds under which the landlord can evict his tenants. From the very outset then, formal legal rules considerably strengthen the bargaining power of the sex worker tenant vis-à-vis the landlord, and sex workers are keenly aware of this. When I asked one sex worker what she would do with a difficult landlord, she responded that she would have "rent control done to the landlord," implying that even asserting a claim as to the property's rent-controlled nature was enough to bring the landlord to the negotiating table. This is due to the costs of litigation and the risk of tying up the property during litigation, such that the landlord cannot sell a tenancy right in the property for selami. In other words, rent control signified doom for the landlord. The strength of sex worker tenants is also indicated by the kind of issues over which they litigate. For instance, one self-employed sex worker tenant I interviewed in Sonagachi had sued her landlord because he refused to allow her a telephone connection in her room. In my interviews with landlords, irrespective of whether they knew about the ITPA or not, they all shared a keen appreciation of the leverage of sex worker tenants as beneficiaries of rent control legislation, possibly due to its long history in Kolkata.

In fact, rent control laws have altered the demand-supply profile in Sonagachi to such an extent that some landlords will pay a tenanted sex worker a high fraction between 50 and 65 percent of the market value of the property or at least the current rates of selami in order to have her leave the property. After all, he can almost immediately recover the current levels of selami from a new tenant and increase the rent. Several older sex workers and brothel keepers I met were confident that their rooms would each fetch at least 100,000 to 150,000 rupees from the landlord, if they wanted to vacate their rooms and return to their hometowns. When sex workers want to leave Sonagachi, some DMSC activists advise them that for a high compensation they should simply tell the landlord that they will be out of town for a couple of months, leaving the room locked. For a landlord, a locked room means the immediate loss of rental income, the inability to lease it out anew, and more generally, a throwback to

a legal no man's land. Where sex worker tenants traveling to do sex work on contract are difficult to track down, the landlord then has two options: breaking into a sex worker's room, which could invite DMSC protest, or pursuing a protracted and costly litigation; both options are palpably unattractive. Sex workers' sense of their ability to leverage Sonagachi's rental property market is also evident in a sex worker leader's demand that they be compensated for vacating rented premises.<sup>15</sup> Alternatively, sex workers themselves are known to sell secured tenancies and pay the landlord a portion of the proceeds, although both these arrangements are illegal under Section 14(2) of the 1997 West Bengal Premises Tenancy Act, which prohibits the tenant from claiming or receiving any payment in consideration of the relinquishment, transfer, or assignment of her tenancy.

Rent control laws are, however, not completely one-sided in favor of tenants. Section 6(g) of the 1997 West Bengal Premises Tenancy Act gives the landlord the right to evict a tenant where property has been put to immoral or illegal use. The Kolkata high court has interpreted Section 6(g) in seemingly contradictory ways when the property is used for sex work. In a 1970 case, the high court held that where the landlord knowingly lets a room to a sex worker to carry on prostitution, the landlord can neither recover rent nor evict the tenant on the basis that the contract is void because it is against public policy under Section 23 of the 1872 Indian Contract Act (*Smt. Parul Bala Chandra & Ors. v. Jamuna Bala Dasi & Ors.* 1970). This strengthens sex worker claims in their negotiations with landlords. In a subsequent case, however, the high court held that where a landlord was not relying on any part of a contract to enforce his right to possession of the rental property, he still had an independent right as owner to eject the tenant from his premises by reason that it was being used for immoral purposes (*KamalaBala Devi v. D.C. Dutta* 1972). The court, however, also acknowledged that it was not always easy to distinguish between scenarios where the landlord relied on the tenancy contract and where he relied on his inherent rights as a landlord. This decision is clearly less favorable to sex workers. However, the interpretive ambiguity around Section 6(g) could be deployed by both sex workers and landlords to their respective advantage. In reality, it is more likely that neither sex workers nor landlords in Sonagachi are aware of the nuances of Section 6(g). Although we may think that landlords in Sonagachi must share some minimum understanding of tenancy laws, my interviews with them revealed a range of degrees of awareness as to both tenancy laws and the ITPA. As sex workers themselves observe, landlords differed just like the five fingers of one's hand. The foregoing discussion illustrates how the elaborate interplay of formal legal rules, informal social norms, and market structures produces a constrained and complex negotiating space within which landlords deal with sex worker tenants.

Although sex worker tenants benefit the most from the market appreciation of rental properties, some landlords stake a claim in this value in one of several ways. First, the landlord may charge the brothel keeper a daily rent of

twenty-five to thirty rupees per adhiya, whether residential or flying and irrespective of the customer flow to that brothel. Second, a landlord may restrict the number of adhiyas or self-employed sex workers that a lessee can maintain. In an affluent section of Sonagachi, for instance, brothel rules require that if a sex worker tenant herself does sex work, she can maintain only one other sex worker. If she does not do sex work, she can maintain two sex workers, and if she keeps more than two sex workers then she has to pay the landlord 10 percent of their income, which for sex workers with an average number of customers is much higher than a fixed daily rental payment. A third plausible arrangement is where the landlord demands a fixed monthly payment from the lessee for every sex worker tenant of the lessee. Under a fourth arrangement, the landlord charges the brothel keeper ten rupees for every customer who visits the brothel. These arrangements violate Section 4(4) of the 1997 West Bengal Premises Tenancy Act, which prohibits a landlord from demanding or receiving any premium or consideration for consenting to the subletting by the tenant of the whole or any part of the premises. The only instance where landlords are in fact strict is where a brothel keeper maintains a minor sex worker. Here, given the high risk of enforcement of the ITPA and the enormous costs of conviction, the payoff to the police for the landlord would be a high multiple of any additional rent he would earn from a minor sex worker, whereas the brothel keeper has a lot more to gain from her income. Landlords who have not devised elaborate rules for a stake in their property's rental value instead extract a premium for amenities and utilities from sex workers, including by rationing them—although Section 4(3) of the 1997 West Bengal Premises Tenancy Act requires the landlord to ensure the maintenance of essential supplies and services. The demand and supply of rental property in Sonagachi thus suggests the existence of an equilibrium that favors older self-employed sex workers, and that is shaped by a radically plural legal field in which internal stakeholders, including sex workers, have very different stakes. However, this equilibrium is also fluid, and shifts can occur for several reasons, including the emergence of alternate tenancy practices such as renting on “contract” and on “commission.”

### Renting on Contract

The tenancy practice to have gained considerable popularity in Sonagachi, particularly in Palatak in the past four to seven years, is renting a room on contract. A sex worker renting on contract from a landlord or lessee could pay rent on a monthly, weekly, or daily basis, although monthly rental payments are more common. In addition to rent, sex workers must pay a substantial deposit called *jamma*, ranging from one year's rent to one hundred times the monthly rent, which is refundable without interest. Note that this violates Section 14 of the 1997 West Bengal Premises Tenancy Act. The deposit protects both the landlord or the lessee and the sex worker from default in rent payment. From the sex worker's point of view, renting on contract is less secure than renting



on payment of selami. Of course, to the extent that landlords do not typically formalize tenancy arrangements, there is no formal difference between renting on payment of selami and renting on contract. The only way the application of rent control laws can be avoided is to either negotiate a rent above the rent control threshold or to enter into a leave-and-license agreement that does not create any property interest in the tenant. Yet, even in the space of nonformalized tenancy arrangements, landlords and sex workers assume a hierarchy of tenancy interests.

Three categories of internal stakeholders rent out rooms on contract in Sonagachi. The first category is the landlord. Landlords who rent out on contract tend to reside in the brothel building and have a mixed profile of tenants with varied tenancy interests. Renting on contract is popular with landlords because of their relatively unfettered ability to fix rent. Neither are they expected to compensate the tenant on termination. The landlord thus appears to have more control over the room. In addition to landlords, lessees with secure tenancy rights rent rooms on contract. Some lessees have no role in the sex industry and have inherited a secure tenancy right, although this is relatively uncommon in Sonagachi. More often, however, lessees are ex-sex workers, who, having paid a low selami for their secure tenancies several years ago, are less inclined to operate a brothel, to invest in the reproductive labor of sex workers, or take the risk of the sex market. Such ex-sex workers instead rent out their rooms to self-employed sex workers on contract for a steady flow of rental income. This is possible because landlords impose minimal restrictions on subleasing practices and usually only expect a nominal payment per day per sex worker, along with the expectation that the sublessee not cause a nuisance or purchase alcohol from outside the brothel. On the demand side, renting on contract is popular with sex workers aspiring to functional independence without having to pay selami or working as an adhiya. These sex workers work independently, while paying a relatively low price for accessing Sonagachi's real estate market, with even recently freed chhukris renting rooms on contract.

My interviews with two landlords in Palatak give some indication of the choices that landlords in Sonagachi make in relation to their tenancy practices. During my visit in July 2006, two DMSC peer educators met me at the Palatak clinic one morning. Palatak was, as always, noisy with lots of hawkers, sex workers shopping for groceries, children running around, and men wandering about aimlessly. Dalals were sleeping in brothel corridors, and some sex workers were already soliciting customers. The brothel building we were headed to was on Imam Bux Lane. There were thirty-three rooms in the building spread over three floors; the rooms were fairly small. There were two toilets in the building for the sixty-five-odd residents. The brothel was dark and dingy with steep and slippery steps. We went upstairs and a young man wearing no shirt was introduced to me as Pranoy Dev, the landlord. He was diffident and hardly keen to speak with me. Anyway, sex workers requested a chair for me, but when I said I preferred to sit on the floor, they brought out a mat and Dev occupied



the chair. Next to him hovered a sex worker in a yellow sari called Preeti whom I assumed was his wife, but she turned out to be a DMSC peer educator.

To initiate a conversation with Dev, I mentioned my legal background and expressed my interest in his problems with the ITPA. The ITPA is so reviled in these parts that just saying the name is usually enough to unleash a volley of words in response. But surprisingly, he had not even heard about the statute. As he struggled to pronounce it, Preeti thrust a one-page write-up on the ITPA in his hands, which the DMSC had prepared for stakeholders in Sonagachi to protest the amendments to the ITPA proposed in 2006. Dev, being illiterate, declined Preeti's offer to read it out loud and instead took it away to a brothel room for someone else to read it to him. He emerged a few minutes later and claimed not to have heard of the ITPA or the proposed amendment. So I began to ask him about the economics of tenancy relationships in Sonagachi.

Dev had managed the property for the past fifteen years, although the property itself had been in his family for longer. He lived in the building with his family. His young daughter stopped by from time to time to sit on his lap while his older son passed by. By now, others in the brothel gathered. An older lady with a cast on her hand spoke as though Dev was her son. Two sex worker tenants sat down to watch us talk. One of them was curious to see the differences between what the landlord told me and told his tenants. The male domestic help in the brothel also joined us. Two of the DMSC peer educators had earlier wanted to leave but stayed back to my relief. It was clear from the crowd that brothel residents did not think highly of the landlord. One of the older sex workers in fact whacked him harshly on his head as she passed by after her bath. Dev was visibly upset and insulted at this. Also, when he asked me if I wanted tea, a sex worker interjected and told him to get me a cool drink. A cup of tea would have cost him two rupees, a cold drink fifteen. Dev checked the change he had and was not all that happy. The same sex worker later told me that sex workers were savvier than landlords because they had to deal with all sorts of men, and although not formally educated, they knew their way about the world.

When asked about his tenancy practices, Dev said that in addition to rent, he charged extra for utilities and shared the cost of maintaining the common areas with the sex workers. Dev had several tenants who had paid a selami, the practice having been prevalent when he started managing the property. Dev claimed that if he tried to evict these tenants, they would demand 50,000 rupees in relocation expenses. He admitted that he had never had that kind of money and so could not pay them off. At the same time, he was sympathetic to the fact that those who had paid a nominal selami several years ago had built their lives around the neighborhood, so how could he evict them? Thus, despite the illegality of the tenancy arrangement and of selami, landlords like Dev did not evict their old-time tenants. He allowed older sex workers to maintain other sex workers by charging extra rent for each sex worker rather than a percentage of her income. New sex worker tenants came to him by word of mouth,

but he made it a point not to allow minor girls and would scrutinize a new sex worker right away. He did not issue rent receipts, only maintaining a *khata* (account book). Of his many tenants, he maintained only five or six sex workers on contract. Dev claimed to have never been faced with a difficult situation when enforcing tenancy arrangements. Applying pressure on the tenant usually worked, he claimed. If not, he planned to use the courts rather than goondas, unlike some other landlords. Dev had never encountered police problems.

The second landowner I met was Shobha, who with her sister had bought a brothel building on Imam Bux Lane in Palatak three years ago. As a DMSC peer educator accompanied me up the three-storied building, it turned out to have another floor with metal gates that led to a fairly large apartment. Shobha and her sister both did sex work, but Shobha had recently stopped so that it did not hinder her younger daughter's marital prospects. Her older daughter was already married. The first room we went to had a very high cot, and a sex worker was sleeping beneath it. There was a metal safe (security locker) in one corner. A cook appeared and offered the cooked food to a deity before serving lunch. As she left, Shobha and her friend, the DMSC peer educator, spoke in hushed tones as they wondered if Shobha's babu or lover would speak to me, for he was known to always be suspicious of her friends. Eventually, he agreed to speak with me. We all went to another room where family members and others, including a sex worker, her young child, a few other children, Shobha's daughters, and her son-in-law gathered around an expensive TV and stereo system. Noticing this, the peer educator gestured to me that Shobha certainly seemed to rake in the cash. Unlike other brothels, here the metal gate isolated the landlords from their sex worker tenants so they did not mill about as in Dev's building.

Shobha's building, for which she paid fifteen lakh or 1.5 million rupees, was better maintained than all the brothels I had visited so far except for the Agrawalis' buildings. Although sales of properties in Sonagachi seem relatively uncommon, when properties do change hands, they are by outright sale and the new landlord inherits the seller's tenants. As an indication of the changing trends in tenancy practices in Sonagachi, and in contrast to Dev's brothel, of the fifteen rooms in Shobha's brothel, only five or six were rented to sex workers with secure tenancies paying a monthly rent of merely 400 to 500 rupees. The rest were rented out on contract for anywhere between 120 and 180 rupees a day, which included all utilities. Sex workers who stayed on contract came for varying periods of time, ranging from fifteen days to a year or more. Their decision to stay depended on if they had enough customers. All sex worker tenants in the building were self-employed. After purchasing the building, Shobha had not raised rents for sex workers who paid selami. Her babu indicated that they were waiting for the three-year period to pass, alluding in all likelihood to Section 18 of the 1997 West Bengal Premises Tenancy Act, under which fair rent can be automatically increased by 5 percent every three years.

Shobha had recently paid 160,000 rupees to a tenant renting a room on selami when she had wanted to leave. When I asked Shobha's babu why they had

made this payment when both the tenancy and selami were illegal, he had no answer. Another sex worker tenant of theirs who had a secure tenancy had not paid the rent for the past fourteen months. Worse, she had locked the room and had not been in touch. So Shobha and her babu recently met a lawyer to send out a legal notice before initiating court proceedings. On the whole, Shobha and her babu preferred renting rooms on contract rather than on payment of selami, so that they could charge a higher rent while also not having to negotiate compensation when a sex worker asked to leave. Shobha's babu believed that the contract system was replacing the selami system. Shobha reportedly had no problems with the police. Thus while Dev, a longtime landlord without adequate capital at hand, was unable to substantially alter his tenant profile, which largely consisted of sex worker tenants who had paid selami, Shobha and her babu bought into a substantially different tenant profile and seemed to be working on eliminating the few remaining sex worker tenants with secure tenancies. This leads us to the third tenancy practice to be found in Sonagachi, namely, renting on commission.

#### Renting on Commission

Of late, Sonagachi's sex market has witnessed an increase in the number of flying sex workers—a shift that has impacted its massive economy. At least one Agrawali I interviewed resented flying sex workers because they were, in her view, “low-class” sex workers who drove down the price of sex to an abysmal thirty-five rupees per shot, wore garish makeup, were indecent and aggressive, swore instead of behaving politely, consorted with poor men, spread disease, flirted with policemen (inviting trouble), and generally spoiled the culture of the red-light area. Why should an Agrawali, an elite member of Sonagachi's sex market, so intensely resent a low-class flying sex worker who posed no direct economic threat to her? After all, the class profile of customers in Sonagachi corresponds to that of sex workers. The Agrawali's reaction signifies more generally the resentment that residential sex workers in Sonagachi bear toward flying sex workers. After all, the latter, who are usually wives, enjoy the social status and economic securities of marriage, which residential sex workers, a high proportion of whom were once married, do not.<sup>16</sup> This resentment, however, also stems from economic factors. Irrespective of the mode of organization of sex work, the category of sex worker, or the scale of the brothel, a brothel keeper views herself as making a considerable investment in the tenancy relation in the form of selami and various layers of rental payments. In addition, she may invest in a managerial class, in sexual labor, and in domestic help. Although some flying sex workers are absorbed into brothels as adhiyas, other street-based flying sex workers entirely bypass the institution of the brothel to compete with medium and small brothels with B or C category adhiyas for the same customer pool without incurring any of its costs—unless, of course, the brothel has a regular customer base.

Central to the economic impact of flying sex workers is their ability to rent a room on commission per sex work transaction, typically from a lessee with a secure tenancy right and, less frequently, directly from the landlord. This is the least secure of the three tenancy practices, as a flying sex worker is not assured of a room when she needs it. As with renting on contract, this arrangement suits both the landlord and sex worker. Faced with limited tenant mobility, a landlord can earn more from renting rooms on an hourly or daily basis than on contract or payment of selami, provided he resides in the building and can manage the flow of flying sex workers.<sup>17</sup> Moreover, he has no obligations to a flying sex worker. She, on the other hand, can stay mobile while being able to access Sonagachi's customer pool and real estate market at a lower price than residential sex workers. In reality, however, since most landlords do not, in fact, reside in Sonagachi, the economic opportunity of renting out on daily contracts or on a commission basis accrues to ex-sex workers with a secure tenancy right who can now function as landladies rather than as brothel keepers. This is an attractive option because landlords have yet to lay systematic claim to the benefits of this tenancy arrangement.

Renting on commission and contract has implications for access to Sonagachi's real estate market and therefore for the institution of the brothel. After all, older sex workers had to work as *chhukris* and *adhiyas* before acquiring a secure tenancy right and functional independence. More recent entrants do not necessarily follow this path. This means that brothel keepers lose a pool of sexual laborers who would have earlier been forced to work in brothels as *adhiyas* due to the unaffordable levels of selami, but who can now be self-employed by renting on contract or commission and compete with brothels for their customers without incurring the costs that a brothel keeper does. This means increased mobility for sex workers to self-employed sex work, higher income, and, therefore, a relatively shorter stay in sex work, leading to the demise—or at the very least, a reconfiguration—of the brothel as an institution. Alternatively, the equilibrium may readjust to reinforce the existing power relations in the brothel. More specifically, a brothel keeper losing customers to flying sex workers may force her *chhukris* and *adhiyas* to entertain more customers at lower prices or under riskier conditions. This will mean far less bargaining power for a *chhukri*, and while the *adhiya* is mobile, her threshold for leaving a brothel keeper under such circumstances will increase, especially if poor market conditions will mean a similar deal at other brothels.

### ■ Relational Dynamics of the Brothel: The Service Relation

The third relational dynamic of the brothel is the relationship between sex workers and the brothel, if any, on the one hand, and customers, on the other. Sex workers in Sonagachi viewed customers with considerable ambivalence as they came in all forms—arrogant policemen, sexual “perverts,” intoxicated

customers, cheap customers, and customers who drugged sex workers and stole from them. Then there were customers who paid to talk, were friends and sympathizers, became lovers, rescued them from being a *chhukri*, and were sex workers' "eyes to the world." Being the most elusive stakeholder in the sex market, I was unable to interview any customers, relying instead on secondary literature. Sexual services in Sonagachi and other Kolkata red-light areas are categorized in terms of the price per shot, price per hour, or price per night. The primary gauge for pricing sexual services, therefore, is temporal. Sex workers in different parts of Sonagachi have varied profiles in terms of their bodily capital and the sexual services they provide. Customers are meanwhile stratified along class lines in terms of their education, income, occupational status, recreational habits, and sexual practice, and this profile corresponds with the category of sex workers they visit. To illustrate, customers of category A sex workers tend to be older, better educated, and drink alcohol, while customers of category C sex workers are less educated and prefer smoking to drinking, paralleling the recreational habits of category C sex workers themselves (All India Institute of Hygiene and Public Health 1993).

Given the criminalization of the sale of sex under the ITPA, customers, sex workers, and brothel keepers are perpetually entering into contracts that they know cannot be enforced in a court of law. The ability of the brothel keeper and sex worker to negotiate the service relation with the customer primarily with respect to price, but also the level of abuse in the case of a *chhukri*, depends on whether or not the sex worker resides in Sonagachi, her mode of organization of sex work, the scale of the brothel as a business, whether the customer enters into—in Ian Macneil's (2001) terms—a relational or discrete contract with the brothel, and ultimately the demand levels in the sex market, which are affected by the monsoons, male abstinence during religious festivals, and stepped-up police crackdowns.

Generally speaking, residential sex workers in Sonagachi have more bargaining power vis-à-vis the customer than a flying sex worker who is unable to fall back on the brothel setup, the local community of sex workers (Sleightholme and Sinha 1996, 11), or the DMSC in dealing with a customer. A *chhukri* has little or no negotiating power in terms of price or level of abuse vis-à-vis the customer when compared to an *adhiya*. Perversely, a brothel keeper will permit a *chhukri*'s abuse, but only as long as the customer is not diseased, does not subject the *chhukri* to visible physical injuries, and does not feel tempted to rescue her.

As for *adhiyas* in a large brothel, they have less economic bargaining power vis-à-vis the customer than *adhiyas* in a small brothel, but can depend to a greater extent on the brothel's employees in countering a violent or noncompliant customer. A small brothel can, however, summon the DMSC in disputes with the customer. A self-employed sex worker can call on other sex workers and the DMSC when the customer inflicts or threatens physical violence. She is, however, highly economically vulnerable. For example, when a customer agrees to a certain rate at the brothel gate, but demands a lower rate inside the

sex worker's room, she, having competed with other sex workers for the customer, would agree to a lower rate from which she can keep the entire income rather than lose him. The service relation between a brothel and a customer also depends on whether they enter into a relational contract or a discrete contract. For example, a wealthy customer visiting a high-end brothel is likely to be a repeat customer who, being in a relational contract, has more bargaining power vis-à-vis the brothel keeper or brothel owner than a onetime or infrequent customer. Even then, he cannot expect to repeatedly exceed the terms of his service relation with a sex worker. The relational or discrete nature of the service relation is, however, an independent variable, because both contractual relations are common in Sonagachi irrespective of the mode of organization of sex work, scale of brothel, or category of sex worker.

Based on my interviews and review of secondary sources, customers assumed a low place on sex workers' list of problems. If anything, despite their economic strength and the various factors on which the service relation depends, customers as nonresidents of the red-light area can be physically vulnerable. At least some are sensitive to the reputational costs of visiting Sonagachi,<sup>18</sup> while few can afford to pay a dalal for protection. As for unruly and abusive customers, sex workers were particularly confident of resisting violence by gathering local support from sex worker neighbors and taking him to the police station (Gonzales et al. 1999). Sex workers clearly experienced security in numbers in Sonagachi. This numerical strength was, however, also the source of competition and economic vulnerability for sex workers vis-à-vis customers. Yet sex workers appeared highly resistant to a wage floor or a fixed rate policy for reasons I will detail in chapter 6. In an industry with low rates and a real fear of a race to the bottom, the prospects for collective bargaining vis-à-vis the customer seemed poor.

An occupational hazard that sex workers and brothel keepers are wary of is developing affective relationships with customers. Sex workers refer to such customers as *babus* or fixed customers. Roughly 30 percent of the sex workers in Sonagachi have *babus* (All India Institute of Hygiene and Public Health 1994). *Babus* form an amorphous category of men in sex workers' lives. They certainly defy the stereotype of the abusive pimp-cum-agent who through a calculated mix of love-speak and terror tactics lives off their earnings from sex work.<sup>19</sup> An occupational analysis of *babus* reveals that 2 percent of the *babus* were pimps, 3 percent were brothel caretakers, and 6 percent were unemployed (West Bengal Sexual Health Project 2001).<sup>20</sup> Thus, *babus* typically have no active functional role in the sex industry being employed outside it. *Babus* are classified into *denewala babus* (Hindi for *babus* who give) and *khanewala babus* (Hindi for *babus* who eat or take). *Khanewala babus* live with the sex worker and off her earnings, developing in some instances a marriagelike relationship (Joardar 1984, 133). Here, despite the patriarchal privileges men enjoy, the *babu* finds himself in a firm reversal of roles where he performs reproductive labor in exchange for material support from a woman who earns considerably more than he does.

The denewala babu, on the other hand, does not live with the sex worker but provides financial security by visiting as a regular customer, although he pays less per visit than other customers (Sleightholme and Sinha 1996, 115). Yet sex workers exhibit a range of feelings about maintaining a babu, from wanting to marry them to viewing them as a drain on their financial resources.

## ■ External Stakeholders

Having delineated the relational dynamics between internal stakeholders in Sonagachi, I briefly locate its external stakeholders. These include goondas, the DMSC, and finally, the local police, all of whom considerably influence the bargaining power of sex workers vis-à-vis stakeholders in the sex industry.

### The Casual Residuum of Kolkata: Goondas in Sonagachi

Goondas, referred to as the “casual residuum of Calcutta” (Das and Ray 1996, 1), are those ubiquitous actors of urban Indian life whose presence is not unique to Sonagachi or other Kolkata red-light areas and who operate in many of the city’s slum and lower-middle-class neighborhoods (Bandyopadhyay and Kerrigan 2004).<sup>21</sup> Between 1946 and 1971, particularly in North Kolkata, there was “a close link . . . between brothels and ‘goondas’” (Das and Ray 1996, 12). Many goondas started as pimps and procurers, and engaged in drinking bouts, assaults, and chain-snatching in Sonagachi, as well as running gambling, liquor, and drug dens. They routinely extorted money from customers and sexual and monetary favors from sex workers under threat of violence. With the DMSC’s arrival, this type of goonda violence has reduced dramatically in Sonagachi.

Existing goonda harassment comes from members of local clubs (or neighborhood associations) and branch offices of political parties. Although local clubs offered a critical entry point early in the DMSC’s work, they now resent an influential DMSC and the increasingly assertive sex workers (Gonzales et al. 1999). They form a strong nexus with powerful brothel keepers and the police in Sonagachi, act as an impediment to the DMSC’s antitrafficking activities, sexually abuse new sex workers, and extort money from sex workers for religious festivals. Members of local party offices also engage in trafficking and extortion (Dasgupta 1998). Given the political clout of local party members, however, the local police are reluctant to take action against them (Sleightholme and Sinha 1996, 65).

### Organizing Sex Workers: The Role of the DMSC

Influential in Sonagachi today is the presence of the DMSC offices steps away from its southern boundary, a site for sex worker organizing in the past decade.<sup>22</sup> In West Bengal, drawing on resources for HIV prevention, the DMSC



has attempted to rewrite the prevalent script of trafficking, forced sex work, and victimhood into sex work as a form of livelihood. In Sonagachi itself, the DMSC has intervened at three levels—to change sexual *practices* by increasing condom usage among sex workers and their customers, to transform *norms* by countering physical abuse from internal and external stakeholders against sex workers, and to transform *institutions* by creating DMSC-run branch committees and self-regulatory boards that regulate the entry of new sex workers and their conditions of work. These efforts have substantially altered the bargaining endowments of sex workers (Misra, Mahal, and Shah 2005) in those areas where change is consonant with the market logic of the sex industry (such as condom usage),<sup>23</sup> or where change is uncontroversial in principle (physical violence from brothel keepers),<sup>24</sup> rather than, for instance, the transformation of entrenched market practices such as *adhiya* and *selami*.

#### Premiums of Illegality: The Police as Stakeholders in Sonagachi

As I outlined earlier, all three relational dynamics of brothel-based sex work in Sonagachi are criminalized by the ITPA. Further, there is an implicit correlation in the ITPA between the penalty and mode of organization of sex work. For example, a brothel keeper who has trafficked a minor *chhukri* could face a long litany of charges, including (1) keeping a brothel; (2) living on the earnings of prostitution with aggravated imprisonment for living off the earnings of a minor child; (3) procuring, inducing, or taking a child for the sake of prostitution; (4) detaining a person in premises where prostitution is carried on; and (5) for seduction of a person in custody, with the most serious punishment extending to life imprisonment and substantial fines. A self-employed sex worker, on the other hand, could be arrested for prostitution in the vicinity of a public place and/or soliciting for prostitution, with convictions for either violation not extending beyond a three-month imprisonment term and a fine of 500 rupees.

Despite the apparent sophistication of the ITPA in targeting the most exploitative forms of sex work, Sonagachi is today a bustling red-light area. Paradoxical as this is, the explanation is far more complicated than the mere non-enforcement of the ITPA, yet since rent-seeking practices by the Indian police are rampant and hardly limited to the sex industry, I characterize the police as an active external stakeholder in Sonagachi. There is no systematic study of the enforcement of the ITPA vis-à-vis the different categories of sex workers and brothels in Sonagachi or in Kolkata more generally. The DMSC, based on its longitudinal view over the past fifteen years, however, suggests declining police harassment of sex workers in recent years. To quote Swapna Gayen, a sex worker leader (and an ex-president of the DMSC), “police behaviour has undergone [a] sea change from [what it was] earlier. Not all police personnel are bad. We get a lot of support from local police stations—fear of the police has actually reduced. As I said, our main fear is social fear.”<sup>25</sup>



Unlike in Tirupati, in Kolkata a special unit of the Kolkata Detective Department, called the Immoral Traffic Section (IT Section), is assigned to investigate offenses under the ITPA. Yet information from the IT Section indicates that far more women are arrested under the ITPA when compared to men. In 1992, 71 women and 12 men were arrested; in 1993, 129 women and 46 men; in 1994, 66 women and 22 men; and as of July 1995, 40 women and 20 men (Sleightholme and Sinha 1996, 58) were arrested. In July 2006, the IT Section revealed that raids had risen from zero in 2001 to eighteen in 2003 but had fallen back to three in 2005. The number of “victim recoveries” rose from zero in 2001 to thirteen in 2006 with three convictions in 2002 and one in 2004. Despite this dismal implementation of the ITPA, even the limited activity of the IT Section from 2002 onward reflects the political priority accorded to sex trafficking due to the charged international opinion on the issue. In West Bengal, however, in contrast to the trends nationally and in the state of Andhra Pradesh, the police used the IPC provisions relating to sex work far more frequently than the ITPA.<sup>26</sup> In 2005, 129 cases were registered under the IPC and only 74 under the ITPA; corresponding figures for the year 2006 were 214 under the IPC and 66 under the ITPA, and for the year 2008, 142 cases were registered under the IPC and 60 under the ITPA (State Crime Records Bureau, West Bengal 2008a; State Crime Records Bureau, West Bengal 2008b).

In Sonagachi, in addition to the IT Section, local police from the Burtaolla station are actively involved in law enforcement. Based on interviews with sex workers and DMSC employees and secondary sources, nonenforcement in Sonagachi, as in Tirupati, occurs both through conscious police inaction against certain modes and submodes of organization of sex work as well as through payoffs by internal stakeholders. To illustrate the former, large swathes of Sonagachi's sex market are untouched by the local police.<sup>27</sup> For instance, small and medium-sized brothels with B and C category adhiyas do not pay regular bribes to the police, and many never pay any bribes at all. Payoffs, on the other hand, are struck on a more routine basis in highly profitable brothels with category A adhiyas, with “protection money” being collected and handed over by the landlord to the police. Local police are known to threaten Agrawali brothel keepers and their minor sex workers with arrest and corrective detention in a state home unless they are paid at least 200,000 rupees. Even as far back as the mid-1970s, constables and officers from the local police station, as well as from the IT Section, regularly took monthly or weekly bribes (*maskabari*) from brothels in Rambagan, a part of Sonagachi (Joardar 1984, 127). Even without demanding payoffs, however, the underlying threat of potential enforcement is omnipresent, fundamentally shaping the relationship between internal stakeholders and the police. Hence, not unsurprisingly, police constables, despite accepting regular bribes, felt free to extort money on a more ad hoc basis, referred to colloquially as “private practice” (ibid., 127). This continues to date: during my fieldwork in Sonagachi, in one instance the local police station demanded “donations” from landlords in the AK Street area for a blood donation camp they organized.

Where the police do enforce the law against stakeholders in Sonagachi, they target certain kinds of illegal activities, motivated by the seriousness of the harm, its visibility (Sen and Nair 2004, 111; Sleightholme and Sinha 1996, 61), and, according to a field supervisor, quotas for offenses that the police need to satisfy. The two primary instances where the police raid brothels in Sonagachi, according to the DMSC, are when the brothel traffics a minor or when a criminal suspect is visiting a brothel.<sup>28</sup> One could term this method “targeted enforcement” given that the gravity of the harm is a prime consideration for the police. The police also enforce the ITPA when conducting daily major sweeps to round up customers and flying sex workers causing a public nuisance near a main entrance to Sonagachi that is off of a busy arterial road running through North Kolkata. This results in “pay-ups” under the relevant laws. While customers pay bribes to be released, sex workers offer sexual favors in addition. However, according to a DMSC field supervisor in the AK Street area, due to advocacy by the DMSC, which mostly represents B and C category workers, sex workers have not been picked up during these major sweeps of late, unless they behave obscenely.

### ■ The Structural Bias Thesis in Sonagachi

The *structural bias* thesis that I set forth in the previous chapter largely holds true for Sonagachi. Even the DMSC attributes sex worker harassment under the ITPA to the long-standing and powerful nexus between landlords, brothel keepers, touts, local goondas, politicians, and the police.<sup>29</sup> However, in light of how sex work is organized in Sonagachi, the structural bias thesis requires considerable qualification, especially given its economic heterogeneity, legal pluralism, the temporalities of change, and the economic impact that regulation has on sex markets as a whole. First, consider the *highly internally differentiated* nature of the sex market. In both Sonagachi and Tirupati, there does not exist any one category of sex worker, or for that matter any other internal stakeholder, upon whom the impact of a given element of the rule network is uniform or can be assessed a priori. On the contrary, interests of the various categories of sex workers are often in conflict. For example, as I have already shown, the popularity of renting on contract in Sonagachi enables several sex workers to achieve functional independence, but can also have dire consequences for adhiyas and chhukris who continue to work in brothels. This problematizes any self-evident notion of “sex workers’ interests” and how they can be protected.

The second blind spot that the structural bias thesis fosters is an inability to recognize the *fluidity of norms and practices* within the sex industry, whether due to changes in tenancy practices or the impact of sex worker organization, and how this causes stakeholders to reorient themselves vis-à-vis each other. For example, the most exhaustive study of the enforcement patterns of the ITPA in India to date, namely, the report commissioned by the National Human Rights

Commission (Sen and Nair 2004), makes no reference whatsoever to informal social norms or practices within sex industries, much less take note of how they respond to change. Yet the difficulties of gathering such resolutely local information cannot be understated. Even DMSC peer educators and field supervisors, the most likely repositories of such knowledge, either did not register these changes or, when they did, always qualified their information as partially true only for their areas within Sonagachi rather than the red-light area as a whole. Third, the structural bias thesis does not allow us to contemplate the sex *market* as a whole. The reason for the lack of attention to the market-based feature of sex work in the literature on the topic is ideological (a feminist reluctance to study sex markets as such and the sex industry as an economic sector),<sup>30</sup> disciplinary (feminist social theory sits uncomfortably with sociologies of sex work), and methodological (longitudinal studies of sex industries are few and far between). I attempt to explore this market-based feature of sex work in chapter 6 by elaborating on the possible economic implications of various law reform proposals on Sonagachi.

The most significant critique of the structural bias thesis is that it views the ITPA in isolation or understands other laws only in relation to the ITPA. Even if the structural bias thesis can be profitably extended to other criminal laws such as special and local laws and the IPC, it still ignores a range of civil legal rules, informal social norms, and market practices. Consider here the legal realist call to seriously consider background rules or “rules that structure the alternatives to remaining in the bargaining situation” (Kennedy 1993, 87). Background rules in Sonagachi are extensive, as one might expect, for it is “a densely interconnected social nexus having many interdependent relationships and exchanges, governed by rules some of them legal rules, and others not” (Falk Moore 1972, 743). To illustrate, apart from the legal rules that I have already outlined so far, background legal rules include urban development laws affecting the delineation of the red-light area; laws relating to associations that directly affect prospects for sex workers’ collective organization; laws relating to elections, marriage, narcotic drugs, and psychotropic substances; and laws pertaining to service providers in the red-light area, such as moneylenders, insurance agents, banks, vendors, food and liquor shops, and so on. Yet, as Falk Moore points out, only some of these background legal rules are significant in the “bargaining, competing, and exchanging processes” between stakeholders (*ibid.*, 729).

Once significant background rules have been identified, however, sociolegal scholars and legal anthropologists have articulated how in the semi-autonomous social space, legal orders, including social norms, customs, community-based dispute resolution mechanisms, social practices, and market structures, of which legal rules are only a small part (Falk Moore 1972, 729), interact with the formal state law. To quote Falk Moore,

The approach proposed here is that the small field observable to an anthropologist be chosen and studied in terms of its semi-autonomy—the

fact that it can generate rules and customs and symbols internally, but that it is also vulnerable to rules and decisions and other forces emanating from the larger world by which it is surrounded. The semi-autonomous social field has rule-making capacities, and the means to induce or coerce compliance; but it is simultaneously set in a larger social matrix which can and does, affect and invade it, sometimes at the invitation of persons inside it, and sometimes at its own instance (ibid., 720).

I have already outlined social norms and market practices like selami or adhiya, which are common throughout the red-light area. In addition, there exist rules that vary from one brothel building to the next, not only affecting tenancy arrangements, but also matters like the maintenance of rooms and common areas of the brothel, repairs, release of electricity, installation of electricity meters, access to the brothel after hours, and customary contributions to the landlord during *pujas* (festivals). Further, several brothels within the same building have rules relating to the labor relationship (e.g., deductions for expenses) and the service relationship, as well as practices between the brothel and external stakeholders, such as goondas, relating to the payment of donations during *pujas* and of protection money and demands for sexual favors, especially from new entrants to sex work.

Yet the relationships of these alternate legal orders with state law depend to a large extent on how they are enforced in the social space. In other words, how exactly are norms like selami enforced? On the face of it, there are no authoritative dispute resolution mechanisms in Sonagachi in which the collective knowledge of stakeholders is anchored and through which it is enforced. Stakeholders in kinship networks or communal networks based on places of origin have their own dispute settlement mechanisms. For instance, Agrawalis are known to have their caste panchayats that arbitrate disputes among members (Agrawal 2008, 63). An Agrawali I interviewed sought my legal advice on suing a nephew who had cheated her of a substantial sum she gave him for investing in a mutual fund. Referring the matter to the community had not helped, and court action would have affected her daughter's marital prospects. Similarly, dalals (touts) who hail from a particular community in Bihar also have their own panchayat for resolving disputes. For the most part though, both sex workers and landlords with some legal awareness seemed to resort to the courts to settle their disputes. In fact, when I queried one sex worker about her faith in the law, which I found puzzling given the perceived arbitrariness of the ITPA in the community, she shot back saying that sex workers were not dumb and that she knew a thing or two about her rights. Although landlords in other red-light areas resorted to goondas, local club members, and party officials to resolve disputes with sex worker tenants, this was not the default scenario in Sonagachi.

Over the past few years, the DMSC has begun to set up self-regulatory boards (SRBs) in red-light areas it works in, including Sonagachi. Sex workers account for 60 percent of the representation on the SRBs; local government officials

and experts, including a local lawyer, doctor, and social worker, account for the remaining 40 percent. At the state level, the steering committee of the SRB includes representatives from the various West Bengal state commissions, such as the women's commission. It oversees SRBs in red-light areas across the state. More formal than ad hoc attempts by Tirupati's sex workers to self-regulate, the SRBs focus less on the management of the three relational dynamics in brothel-based sex work than on the prevention of trafficking and the forced prostitution of women and girls and their repatriation. New sex workers who are not trafficked or forced into sex work are counseled about working conditions, brothel rules, and safety. The DMSC claims that self-regulatory boards have reduced the incidence of police raids in red-light areas, trafficking of minors, forced sex work, and physical violence against sex workers from brothel keepers and local goondas. In the future, SRBs expect to regulate conditions within sex markets, given sex workers' own expertise and knowledge of the red-light areas that they live in. The DMSC has also set up branch committees in red-light areas like Sonagachi with elected sex worker representatives who resolve minor disputes between sex workers and their customers, babus, and landlords. They also pool resources to help sex workers and their children in emergencies. Finally, in addition to SRBs and branch committees, some DMSC field supervisors also dispense advice to sex workers on an ad hoc basis on negotiating their relational dynamics. Yet some DMSC staff wish to keep the DMSC out of daily disputes altogether. As a result, there exists no organizational position on economic issues of significance for sex workers, such as the compensation payable on vacating a brothel room.

Despite the DMSC's institutional innovations, it hardly exerts total influence in Sonagachi. As of August 2004 the two proposed SRBs were not up and running, and municipal councillors were being recruited as representatives. Agrawalis were also opposed to the DMSC's position on trafficking and forced sex work. Sex workers from upscale brothels like Neel Kamal (or Blue Lotus) refused to even communicate with DMSC staff. Thus, while the DMSC may have been able to change the bargaining potentials of lower-class sex workers, it is unable to challenge the class structure within Sonagachi's sex market. There is, however, some state support for SRBs. When approached, policemen will often ask disputing parties whether they have approached the SRB. At other times, the DMSC and the police will jointly resolve a dispute. Yet they also occasionally come into confrontation. To illustrate, in January 2004 the IT Section, which unlike the local police station is not a repeat player vis-à-vis the DMSC, raided a brothel in Sonagachi, taking custody of a sex worker who they insisted was a trafficked minor. A DMSC field coordinator confronted the police, insisting that she was in fact a twenty-five-year-old sex worker with two children and had been in Sonagachi for six years. The police arrested the field coordinator for obstructing them in the midst of a crowd of two thousand sex workers who attacked the police van and injured six policemen (*Times of India*

2004a).<sup>31</sup> In the sensational press coverage that followed, the girl was confirmed to be a minor.

The overriding effect of the state's criminal law, evident in the example cited above, brings us back to the pervasive illegality under state law of several of Sonagachi's living and working arrangements. Yet legality and illegality in the postcolonial setting are co-constitutive of each other and should not be seen to be operating in an on-off relationship. There is considerable porosity between the legal and illegal aspects of individual and collective life in Sonagachi, which internal stakeholders negotiate with varying levels of awareness, skill, and resources. Further, there are multiple layers of illegality that operate in tandem. For instance, current tenancy relations in Sonagachi are illegal under the ITPA, the 1872 Indian Contract Act, and the 1997 West Bengal Premises Tenancy Act. But there is no hierarchy of illegalities, such that the illegal transfer of selami payments can occur only if the ITPA were somehow in abeyance. To be sure, if the ITPA was enforced all the time, the red-light area in Sonagachi would not exist. But it is not as if the selective enforcement of the ITPA in Sonagachi amounts to a *de facto* suspension of its application, allowing stakeholders to freely bargain in the shadow of the criminal law. Instead, the threat of enforcement of the ITPA is always present. Although stakeholders can predict to some extent the points of potential enforcement of the ITPA and can access tested ways of negotiating enforcement with the local police in the form of pay-ups and payoffs, the outcomes of these bargains are never certain. At the same time, there exist symmetries of illegality that keep the various stakeholders in check in their mutual dealings, since no one stakeholder would necessarily use the illegality of any of the relational dynamics under the ITPA to gain leverage over another stakeholder for fear of implicating his or her own violation of the law.

Although there is no necessary hierarchy between the different levels of illegality, they can produce vastly different orientations and subjectivities on the part of stakeholders. For instance, the practice of selami, despite its illegality, is a pervasive, persistent social norm inextricably woven into the socioeconomic fabric of life in North Kolkata. While stakeholders in Sonagachi deeply resist the logic of the ITPA, they are more accepting of selami, around which has emerged a common social understanding of the hierarchy of tenancy interests. However, this informal social norm is not definitive in any sense. So while an older ex-sex worker with a secure tenancy interest can anticipate compensation at current levels of selami for vacating her room, she cannot be certain of it. Also, stakeholders' decisions are influenced by varying levels of legal consciousness, which are in turn influenced by uneven levels of knowledge about the law and the preferences for risk that stakeholders are willing to take in light of that information. This renders a resilient material practice like selami quite malleable, causing stakeholders to make finely calibrated decisions that take into account a myriad number of factors, only one of which includes its illegal characterization under formal state law.

In conclusion, it is only by heeding the legal realist call to consider a range of background rules—including formal legal rules, informal social norms, and market practices—that we come to discern Sonagachi's complex legal space for what it is. Here, the rule network endows a range of stakeholders, including sex workers with differential bargaining powers, so that the outcomes of the legal system cannot be predicted ahead of time. Instead, stakeholders occupy constrained negotiating spaces from which they engage in routine yet fluid bargains across the three relational dynamics of brothel-based sex work. It is against this backdrop that we need to assess the likely consequences of any formal legal rule change.

### ■ Unpacking Sex Workers' Differential Stakes in the Industry

In this chapter, I have presented a sociology and legal ethnography of one of India's most notorious red-light areas, Sonagachi, which, in journalistic, academic, and governmental accounts, produces a monolithic, stereotypical image of the enslaved third world sex worker (Kristoff 2006; Kapur 2005b). Instead of flattening all that lies within Sonagachi's boundaries into the single monochromatic thread of violence and exploitation, I draw out the complex web of power relations that sustain the red-light area and the varied positions that sex workers occupy within it. I do this through an institutional account of brothel-based sex work and problematize the role of the criminal law in Sonagachi by focusing less on points of its enforcement than as a set of background rules against which stakeholders fashion their living and working arrangements. My hope is that a materialist analysis of sex work crafted painstakingly from the sociology of sex markets and minute-level interactions between stakeholders could be one step toward a more refined feminist vocabulary on the strength of which we can articulate a normative theory of sex work and undertake efforts at redistribution. It is precisely to this task that I turn in part 3.

PART THREE

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## **Toward a Theory of Redistribution in Sex Markets**



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### **Regulating Sex Markets**

#### **The Paradoxical Life of the Law**

In this chapter of the book, I address the intractable problems of prostitution law reform, not necessarily in a prescriptive mode, but with a view to complicating the current thinking on the distributional consequences of policies on concrete sex markets. There is considerable if not unanimous agreement among feminists on the negative consequences of anti-sex work criminal laws for sex workers. As a result, international reform trends reflect the view that complete criminalization, including of sex workers, is less desirable than the remaining three possibilities of partial decriminalization, complete decriminalization, and legalization. There are, however, exceptions, such as the South Korean law, the 2004 Sex Trade Prevention Act, under which only sex workers who are victims are afforded protection but not those who work voluntarily and are arrested along with other stakeholders (Jeffreys 2009; Cheng 2004). The South Korean law is a reminder for feminists that the language of victimization can lead states to formalize conservative social attitudes toward supposedly good women worthy of rescue and legal protection and bad women who are not. For the most part, however, disagreements between abolitionists and sex work advocates have sharpened around the remaining three policy options. Certainly, in addressing the negative externalities of anti-sex work laws for sex workers, abolitionist feminists call for the criminalization of demand, while other feminists warn of how this will perpetuate harm against them. Of late, empirical studies of sex industries have furthered feminist insights into the working of laws. First, these studies reveal that sex workers' interests are not uniformly served, or harmed, by the same legislation (O'Connell Davidson 1999, 205). To illustrate, the decriminalization of brothel prostitution could lead to the increased harassment of street prostitutes (*ibid.*). Similarly, a regulatory proposal could entrench the divide between native and migrant sex workers in the Western European context (Agustín 2007a, 73). More counter-intuitively, highly varied policies on sex work can produce strikingly similar consequences (Bernstein 2007a, 146, Scoular 2010). Thus, Bernstein demonstrates how *de facto* decriminalization, legalization, and criminalization in San

Francisco, Amsterdam, and Stockholm have all resulted in the displacement of disenfranchised street walkers from gentrifying city centers and have driven illegal migrant sex workers further underground while privileging a small tier of indoor workers. Bernstein argues that the feminist inability to anticipate the unintended consequences of their lobbying efforts comes from a failure to appreciate the larger changes in the political economy heralded by postindustrialization. I suggest that these blind spots of feminist thinking also come from the lack of a legal realist understanding of the impact of anti-sex work laws.

For all the sophistication of feminist theorizing of sex work, when it comes to the law, feminists demonstrate signs of legal formalism. Writing in the context of governance feminism, some of us have argued that feminists often view “criminal law reform to operate simply by actually eliminating precisely and only the conduct it outlaws” rather than taking into account the actual enforcement of the law, how this varies even at any given moment between various administrative, judicial, and executive authorities, and the complex bargaining endowments it produces (Halley et al. 2006, 340). Thus, criminalization on the books often means *de facto* decriminalization in action. Meanwhile, formal decriminalization might still mean that sex workers are criminalized under the general criminal law and special statutes regulating public life rather than sex work. Although terms like criminalization, decriminalization, and legalization hinge around the presence, or otherwise, of a specific anti-sex work criminal law, in reality, the sets of laws applicable to sex work are extensive and go well beyond such a law. Therefore, no realistic understanding of the sex market itself is possible unless an expansive understanding of the law and its pluralism is brought to the sex work debates, which in turn will alert us to the unintended consequences of policy proposals no matter how well intentioned. Such an analysis might even reveal that criminal law may not be the most appropriate arena for reform, as in the case of Sonagachi. Against the backdrop of chapter 5, which has detailed the heterogeneity of Sonagachi’s sex market and its legal pluralism, in this chapter I assess the consequences of a few reform scenarios for Sonagachi, including of partial decriminalization, complete decriminalization, and legalization for empowerment. I choose Sonagachi because some of the proposed regulatory models in the Indian context, like legalization for empowerment, specifically deal with brothel-based sex work, and because the interests of stakeholders here are interconnected to a larger extent than in a dispersed sex market like Tirupati, making it conducive to study as a discrete sex market. The disparate consequences of any given legal proposal can then be examined both for different sets of stakeholders within Sonagachi and for its market as a whole. These assessments then form the basis for a theory of redistribution, which is outlined in chapter 7.

I focus, in particular, on the possible *economic* consequences of varied legislative proposals. Perplexingly, however, any economic understanding of the sex industry tends to be mischaracterized as a neoliberal move (Jeffreys 2009) or as supporting the legalization of sex work. Economic reasoning could well be

portrayed as yet another “bewildering mode of female collaboration” (MacKinnon 1987, 7). As it is, feminists think nothing of dismissing, as false consciousness, sex workers’ own deep-rooted understanding of sex work in terms of the market and their role as rational economic actors. Yet the law’s unintended consequences on the sex industry and on sex workers’ lives cannot be comprehended without recognizing the market-oriented dimension of sex work, whether or not we choose to take up the tools of economic reasoning. This is not to say that the feminist ambivalence toward cost-benefit analysis and law and economics more generally is not well founded. As Kennedy observes:

That language is distancing, objectifying, flattening, alienating. It makes it sound as though all the different people with all their different costs and benefits were the same, and as though intense suffering and evil pleasure could be “aggregated” into undifferentiated masses of “utility and disutility” with “weights” to be compared. It makes it sound as though abuse were a practice with no moral character, and therefore something that I might want either to condemn or to endorse, from a neutral technocratic position, according to how the numbers turn out. (1993, 129)

Still, the nascent field of feminist economics has increasingly problematized the assumptions of neoclassical economic reasoning. Despite the discomfort of invoking economic language, then, it may be possible to articulate a complex feminist view of sex work that does not simply reduce sex workers to rational economic actors but is cognizant of the structures of oppression that they are embedded in. This is certainly an approach that feminist economists like Della Giusta find feasible (Della Giusta, Di Tommaso, and Strøm 2008). Feminist legal scholars have similarly employed both game theory and a legal realist lens to assess the varying stakes of wives and sex workers in the regulation of sex work while keeping normative questions at the heart of the discussion (Hirshman and Larson 1998). Hence, a distributional analysis of the economic consequences of anti-sex work laws, far from being an abdication of a normative project, could be viewed as stemming from an ethical desire to avoid the unintended consequences of laws for the most disadvantaged of sex workers.

There are surprisingly few economic analyses of sex work, a fact that economists admit, and much of what exists is relatively new (Della Giusta, Di Tommaso, and Strøm 2008, 2; Cameron and Collins 2003, 271). These analyses focus on both supply and demand dynamics. They assess the earnings of sex workers (Moffatt and Peters 2004) and the wage differential between sex workers when compared to other forms of employment (Levitt and Venkatesh 2007, 3; Gertler, Shah, and Bertozzi 2005, 531; Moffatt and Peters, 2004, 685), finding that the price in sex markets depends positively on the wage earned in alternate employment (Moffatt and Peters 2004, 687). Similarly, they analyze factors affecting male demand for sexual services (Cameron and Collins 2003, 273). Men may want to satisfy what is referred to as “variety demand” by finding a new partner or purchasing the services of a sex worker. Some may desire a higher

frequency of sex than their partners are ready for and may resort to buying sexual services during times of marital conflict (*ibid.*, 274). In all these instances, they would factor in the threat from buying sex or having a new partner or to an existing relationship and related assets. With a new partner, they would consider the costs of emotional involvement in a new relationship and, in the case of a sex worker, the prohibitive search costs involved. A preexisting marital status additionally impacts men's time budgets, psychic costs, and guilt if they were to visit sex workers (*ibid.*, 280). Economists also consider the effect on the sex market of positive demand shocks, such as a public holiday, and the resultant effect on the supply of sex workers and the price per sex work transaction (Levitt and Venkatesh 2007, 4). One could similarly imagine negative shocks to demand (Levitt and Venkatesh 2000, 758) in the form of police raids, resulting in a fall in price and the quantity of sex sold.

Also, drawing on a range of sources, such as customer reports posted on the Internet, to police enforcement data on arrests of sex workers and customers, to public health surveys, economists assess the variables that determine price levels in any given sex market (Levitt and Venkatesh 2007, 3, 16; Gertler, Shah, and Bertozzi 2005, 535; Moffatt and Peters 2004; Cameron, Collins, and Thew 1999), especially condom usage (Levitt and Venkatesh 2007, 4; Gertler, Shah, and Bertozzi 2005, 541; Rao et al., 2003), which has assumed significance in the context of the HIV pandemic. Finally, economists have also focused on the differential impact of the various regulatory models on sex markets (Collins and Judge 2008; Della Giusta, Di Tommaso, and Strøm 2008), particularly customers' responsiveness to risk level variations (Collins and Judge 2008). Feminist economists similarly study sex markets and employ explicitly feminist modeling, arguing, for instance, that given the structural inequalities between men and women, demand and supply functions must take into account the relative social positioning of customers and sex workers (Della Giusta, Di Tommaso, and Strøm 2008, 17). In other words, that stigma plays a fundamental role in determining both quantities demanded and supplied, and that both customers and sex workers have potential for reputational losses.

My assessment of the impact of regulatory proposals on Sonagachi builds on this economic literature in two significant ways. First, rather than assume the presence of the anti-sex work criminal law alone, my legal realist understanding of sex markets draws out the complex rule network prevalent in Sonagachi, including criminal legal rules, civil rules, social norms, and market structures. Second, to the extent that the existing economic literature on sex work looks only at the service relation, it assumes that sex work is performed in the independent/self-employed mode. Instead, I assess the distributional impact of rule changes on the multiple modes of organization of sex work in a complex sex market, on its relevant stakeholders, and the relational dynamics between them. Thus, it furthers the feminist economic aspiration to consider the social situatedness of stakeholders rather than assuming they are disembodied rational economic actors in relatively equal bargaining relations. In doing so however, I want to emphasize that my attempts at economic analysis derive

primarily from my ethnographic instincts, specifically the realization that sex workers are economic actors who articulate a logic of the sex market. My analysis is as such, rudimentary, highly tentative and requiring much more data in reaching any definitive conclusions. Suffice it to say then that the analytical moves I am about to make must be viewed above all as an invitation for future collaborative work across the disciplines.

### ■ Redistribution within the Sex Industry: The Indian Legislative Backdrop

Indian policy makers began to actively consider prostitution law reform in 1986 with the discovery of the HIV virus, well before the current international abolitionist moment. The federal government proposed to pass the AIDS Prevention Bill, 1989 (Gautam 1989, 7), which provided health authorities with invasive policing powers such as forcible testing, isolation of members of high-risk groups (including sex workers), and coercive tracing. It was only after a sustained campaign against this patently unconstitutional law by NGOs that the government withdrew it. After a phase of governmental activity, which has been described as exemplifying denial in HIV prevention terms,<sup>1</sup> a more considered process of policy formulation soon followed. At the provincial level, however, statutes continued to be highly problematic for sex workers well into the 1990s. The 1994 Maharashtra Protection of Commercial Sex Workers Bill, for instance, required that if a sex worker had an STI or HIV, a bold blue sign be tattooed on her forehead (Patkar and Patkar 2000, 15; Sanlaap, 1998, 124; Robinson 1998, 1909). The bill also required enumeration, registration, and regular compulsory medical testing (Patkar and Patkar, 2000, 15).

At the federal level, however, the early 1990s presented a window of opportunity when both projects for legal reform and sociological studies of the sex industry had an open-ended quality to them. In particular, when the Ministry of Human Resources Development commissioned the National Law School of India University, Bangalore, to draft legislative proposals for law reform, the effort yielded at least three drafts for discussion, including a student-led proposal, all of which reflected complex combinations of the existing policy approaches toward prostitution law reform, including partial decriminalization, conventional legalization, and legalization for empowerment. These proposals included the Prevention of Immoral Traffic and the Rehabilitation of Prostituted Persons Bill, 1993; the Prohibition of Immoral Traffic and Empowerment of Sexual Workers Bill, 1993 (the “Sexual Workers Bill”); and the Sex Worker (Legalisation for Empowerment) Bill, 1993 (the “Empowerment Bill”). The Centre for Feminist Legal Research (CFLR), a feminist NGO, also put forth a proposal in the late 1990s to amend the ITPA to decriminalize sex between consenting adults, in turn supplemented by the statutory recognition that sex workers have the same rights as other citizens (Centre for Feminist Legal Research 2004, iv, vi–vii), thus promoting the empowerment of sex workers.

Complete decriminalization, however, has never really been a live policy option, either for the Indian state or for feminist NGOs. However, some sex workers' groups have called for the repeal of the ITPA. I explore the implications of many of these proposals for Sonagachi, broadly embodying the approaches of partial decriminalization, complete decriminalization, and legalization, assuming that a similar analysis can be performed for Tirupati.

### ■ Partial Decriminalization in Sonagachi

Partial decriminalization is exemplified by the Swedish policy of criminalizing demand, in other words, criminalizing the customers of sex workers but not sex workers themselves. Under pressure from the U.S.-led abolitionist agenda and its sanction-based scheme under the VTPA (Halley et al. 2006; Chuang 2006), national governments the world over seem to favor partial decriminalization when considering reform. Moreover, partial decriminalization is a preferred regulatory position for many feminists who, despite their differences, are almost unanimously against complete criminalization but are at the same time ambivalent about both legalization and complete decriminalization, which some feminists perceive as legitimizing the inequalities of the sex industry. Hence, there arises the need to unpack the implications of partial decriminalization for a concrete sex market.

Two proposals illustrate the partial decriminalization approach in the Indian context. The first is the Prevention of Immoral Traffic and the Rehabilitation of Prostituted Persons Bill, 1993, and the second is the 2006 Immoral Traffic (Prevention) Amendment Bill, which was tabled before the Indian Parliament (the "2006 Amendment") until March 2009. The 1993 bill proposed by the National Law School of India University defines prostitution as sexual abuse and exploitation for commercial purposes and customers as persons who sexually abuse and exploit another for purposes of prostitution. Yet it criminalizes the commission of prostitution with or without the consent of the sex worker, only where she prefers a complaint of sexual abuse, exploitation, physical harassment, or a customer's refusal to use medically advised procedures.<sup>2</sup> Finally, the bill criminalizes broadly phrased activities like "facilitating prostitution" to extend to brothel keeping. To the extent that the bill not only penalizes third parties involved in prostitution but also customers, as the 2006 Amendment to the ITPA does, it exemplifies partial decriminalization.

The 2006 Amendment criminalized the customers of sex workers. Section 5C provided that any person who visited or was found in a brothel for the purpose of sexual exploitation of any victim of trafficking will be punished for up to three months or receive a fine of up to 20,000 rupees, or both; the fine alone was forty times the amount currently imposable under the ITPA. In the case of a second or subsequent conviction, the customer could be imprisoned for up to six months and pay a fine of up to 50,000 rupees. Trafficking was broadly

defined to include a wide range of means by which a person can be trafficked, rendering almost all sex workers in Sonagachi trafficked and almost all customers liable for prosecution under Section 5C. In addition, the proposed amendment sought to repeal Section 8 of the ITPA, which is currently disproportionately used against female sex workers for soliciting, as well as Section 20, which grants magistrates wide powers to evict sex workers from any place in their jurisdiction. The proposed amendment also created the offense of trafficking under Section 5A and exponentially increased the existing penalties for brothel keeping and detaining a person in premises where prostitution is carried on.<sup>3</sup> Prostitution under the proposed amendment was defined as “the sexual exploitation or abuse of persons for commercial purposes or for consideration in money or in any other kind.” In effect, then, the 2006 Amendment sought to decriminalize the sex worker while further criminalizing the customer and other internal stakeholders; this was partial decriminalization in real terms. Although the 2006 Amendment has since lapsed in Parliament, I consider the implications of this approach for Sonagachi’s sex market.

#### ■ The Effect of Enforced Partial Decriminalization on the Tenancy Relation

Let us assume that the proposed amendment was passed and that the police actually enforced it instead of engaging in rent-seeking behavior. Let us also assume that no other laws were enforced, whether other criminal laws or civil laws like tenancy laws. I make this assumption particularly in relation to the criminal law because the primary critique of the anti-sex work law as demonstrated through the structural bias thesis is its non-enforcement or corrupt enforcement. In order to assess the proposal on its own terms then, I make the assumption of total enforcement hoping for an analytical payoff in the process. We can then assess the distributional consequences of enforced partial decriminalization for internal stakeholders in Sonagachi. Let us first consider the tenancy relation. A landlord with no functional role in the sex business could be prosecuted under Section 3(2) of the amended ITPA (for allowing premises to be used as a brothel) and under Section 7(2) (for knowingly permitting prostitution in or in the vicinity of a public place).<sup>4</sup> Both upon conviction entail imprisonment, or a fine, or both. Under both sections, an absentee landlord can be acquitted if he can prove ignorance as to the use of the building, although this argument is more tenuous for a resident landlord.

If the landlord leases a room to a sole self-employed sex worker tenant, however, he could argue that his property is not being used as a brothel in light of the definition of a brothel under Section 2(a) of the ITPA and its interpretation by Indian courts following English law, effectively exempting a sole woman who receives a number of men from constituting a brothel (*In re John and Others* 1966, following *Strath v. Foxon* 1956). Similarly, the Madras high court held



that where a single woman practices prostitution for her own livelihood, without another prostitute, or some other person being involved in the maintenance of such premises, her residence will not amount to a “brothel.” There cannot be, the court held, any clearer indication of the purpose of the Act, which is to strike down commercialized vice, not to make the unfortunate prostitute, who was often already a victim of economic pressures and social maladjustment, a criminal under the law (*In re Ratnamala* 1962, 33).

Moreover, the phrase, “sexual exploitation or abuse for the gain of another person” in the definition of a brothel under Section 2(a) has been narrowly interpreted by courts, and there is no indication that payment of rent to a landlord from the earnings of sex work could amount to the “gain of another person.”<sup>5</sup> Section 7(2), unlike Section 3(2), relates to knowingly and willfully leasing property in a public place to a sex worker for “prostitution” rather than use of premises as a brothel. Since prostitution under the amended ITPA is defined as “the sexual exploitation or abuse of persons for commercial purposes or for consideration in money or in any other kind,” a self-employed sex worker tenant could argue the lack of sexual exploitation for commercial purposes since she does own-account sex work. Based on this, her landlord could be acquitted of a charge under Section 7(2).

Unless the landlord is renting his properties to sole self-employed sex worker tenants, he could be found guilty under Sections 3 and 7. Under Section 18(2), a magistrate could, upon conviction of the landlord under either of these two sections, or even otherwise (provided there is prior hearing), order the eviction of all current occupants of the building and require the court’s approval for every future tenancy for either a year or three years (if a minor or child is found in the brothel). Although failure to obtain approval attracts a fine of a mere 500 rupees, the landlord is unlikely to re-lease his property to sex workers given the constant enforcement of the amended ITPA by the police and higher penalties for subsequent convictions. From the landlord’s point of view, Section 18(2) amounts to a global eviction order, allowing him to realize the market value of his property, hitherto tied up by sex workers with secure tenancy rights, without incurring any transaction costs in the form of compensation payouts. Except for sole self-employed sex worker tenants who could argue that they do not keep a brothel and are not sexually exploited and therefore not engaging in prostitution, other tenants of the landlord, including brothel keepers and lessees,<sup>6</sup> would lose their secure tenancy rights. Older sex workers who paid a low selami several years ago would lose the appreciation in the property value, which they viewed as retirement insurance, while more recent tenants would forfeit their substantial selami payment to the landlord. The landlord could now collect selami payments from a whole host of eager new tenants, including householders, who, given the increased enforcement of the amended ITPA, would be less dissuaded by the reputational costs of living in Sonagachi. Demand for properties in Sonagachi would likely increase, and assuming that rent control laws are not enforced, both rents and selamis would

increase substantially. This would further increase the threshold to functional independence for sex workers. Only self-employed sex worker tenants with secure tenancy rights would continue to live and work in Sonagachi.

### ■ The Effect of Enforced Partial Decriminalization on the Labor Relation

A brothel keeper maintaining a *chhukri* could be prosecuted under Section 3(1) of the ITPA for keeping a brothel, Section 4 for living on the earnings of prostitution, especially a minor, Section 5 for procuring a child for the sake of prostitution, Section 6 for detaining a person in premises where prostitution is carried on, and under Section 9 for seduction of a person in custody. A conviction can result in imprisonment ranging from two years to life imprisonment along with payments of substantial fines. If the *chhukri* is arrested either under Section 7 for prostitution in a public place or under Section 8 for soliciting, the brothel keeper would have to pay the fine since a *chhukri* technically has no money of her own. Upon conviction under the enumerated sections, the brothel keeper would lose her advance payment to the trafficker as well as her *selami*. A brothel keeper with one *chhukri* belonging to the B or C category would lose less than an *Agrawali* running a medium-sized brothel with several A category *chhukris*. Still, their brothels would be shut down and the *chhukris* sent to a government home for rehabilitation, from where they could eventually leave the sex industry.

A brothel keeper with adult *adhiyas* could be prosecuted under Sections 3 and 4, attracting substantial punishments, as well as under Section 5 for procuring, punishable by a fine and three to seven years' imprisonment. The consent of an adult *adhiya* here is irrelevant. Although these imprisonment periods are less than those for a brothel keeper with a *chhukri*, a brothel keeper with *adhiyas* also forfeits her *selami* payment to the landlord. Again, the brothel keeper of a large brothel with A category *adhiyas* would suffer more financially when compared to a brothel keeper of a small brothel with one B or C category *adhiya*. *Adhiyas* who could not afford the pre-enforcement *selami* levels would not be able to afford the higher post-enforcement *selami* levels. They would either borrow capital for *selami* to become self-employed or exit sex work and work in the informal sector with relatively low bargaining power.

Enforced partial decriminalization would have a differential impact on varied categories of self-employed sex workers. The flying sex worker would continue to be arrested under Section 7 for prostitution in a public place and, upon conviction, be imprisoned for up to three months, during which time she foregoes earnings. Since she is likely to be working in Sonagachi without her husband's knowledge, overnight detention from arrest under the ITPA makes her highly vulnerable by revealing her sex worker status to her husband. She may then have to quit sex work or lose considerable bargaining power in her marriage. To avoid these options, she may do street-based sex work under less

safe conditions in other parts of Kolkata. With a self-employed sex worker renting on contract, her lessee may be arrested under Section 3(1) for allowing premises to be used as a brothel, despite the fact that she has no functional role in the sex industry. Upon conviction and imprisonment, she would forfeit her selami and have to move out with her family. The sex worker, on the other hand, may be arrested under Section 7. With the eviction of the lessee, the sex worker would have lost the opportunity to rent a room in Sonagachi without paying selami, requiring her to borrow money for paying selami or exiting sex work altogether.

Although the self-employed sex worker tenant may be arrested under Section 3(2) for keeping a brothel, she could argue that she does own-account sex work and that her brothel room is not used for “sexual exploitation or abuse for the gain of another person.” Since Indian courts understand the goal of the ITPA as targeting commercialized vice, and not vulnerable sex workers operating on their own, she is likely to be acquitted (*In re John and Others* 1966; *In re Ratnamala* 1962). As for a charge under Section 7(1) of prostitution in a public place, she could argue that own-account sex work does not amount to prostitution under the amended ITPA. If this interpretation fails, she could be imprisoned for up to three months, during which time, unable to sublease her room to another sex worker, she may lose her room and selami. This means paying a much higher selami and rent upon reentry to Sonagachi’s real estate market, making the costs of prosecution prohibitive.

### ■ Enforced Partial Decriminalization and Sonagachi’s Sex Market

I now assess the impact of enforced partial decriminalization on Sonagachi’s sex market as a whole and, in the process, on the third relational dynamic of brothel-based sex work: the service relation. Enforced partial decriminalization would initially result in the reduction of the number of sex workers in Sonagachi. In the absence of brothels and their *chhukris* and *adhiyas*, self-employed sex work would become the norm. Whether and how much self-employed sex workers make under enforced partial decriminalization would depend on supply and demand levels.

With enforced partial decriminalization, the influence of goondas in Sonagachi’s sex market would reduce dramatically. As it is, the DMSC’s presence has led sex workers to report a reduction in the levels of harassment and violence. For the self-employed sex worker tenant, reduced harassment translates into a more secure tenancy interest, although it has a lesser impact on self-employed sex workers on contract since their mobility is more a function of the availability of rental properties on contract. Reduced goonda harassment and increased safety creates an incentive for self-employed flying sex workers to work in Sonagachi than on Kolkata’s streets. Enforced partial decriminalization also means that there are likely to be fewer payoffs to the police. Reduced goonda harassment and fewer payoffs to the police ultimately result in the lower costs

of doing sex work and better working conditions for self-employed sex workers. Lower costs and increased safety are likely to trigger increased numbers of sex workers entering Sonagachi's sex market, although one might argue that the related reputational costs are prohibitive so as to have zero impact on sex worker supply. Assuming, however, that there is at the very least some increase in supply, it could result in a drop in the price per shot for sex workers working in Sonagachi.

If, however, the police enforce the amended ITPA against all customers rigorously, there would be a sharp drop in the demand for sex work in Sonagachi, displacing it to parts of Kolkata where the ITPA is enforced less rigorously. There would be much less demand for sex work in Sonagachi, a much lower quantity of sex work would be performed, and the price per shot would be less than prior to the enforcement of the amended ITPA. Self-employed sex workers in Sonagachi and those contemplating entering sex work in light of the reduced costs of sex work may then reconcile to staying in marriages or work in the formal or informal economies on weaker bargaining terms than before. However, due to poor institutional capacity, the total enforcement of partial decriminalization against all customers all the time is highly unlikely. This means that while demand would drop sharply initially, it would eventually stabilize at a lower level than prior to enforced partial decriminalization, but would not be eradicated.

Under these circumstances, if the supply of self-employed sex workers exceeds customer demand, the price per sex work transaction would be lower than prior to enforced partial decriminalization. Let us, however, assume the best-case scenario where the supply of sex workers is less than customer demand. After all, due to enforced partial decriminalization, the threshold to self-employed residential sex work in Sonagachi is now much higher than before. Moreover, supply may not be as high as anticipated due to the prohibitive social costs for some women of entering sex work despite the improved conditions within the sex industry. It is more likely, therefore, that when the price equilibrium for sex work transactions is reached in Sonagachi, self-employed sex workers remaining there would in fact earn more than before the amended ITPA was enforced, but this is not costless. As illustrated earlier, prior to the change in law, residential sex workers found safety in the red-light area due to the concentration of brothels. With the eradication of brothels, stakeholders like dalals and brothel keepers, who screen abusive customers, would be eliminated from Sonagachi. Some landlords and brothel keepers may have countered harassment from the police and goondas. At least sex workers were confident of their own ability to counter such abuse given their sheer numbers in the red-light area. The elimination of these stakeholders translates into marginal savings for sex workers but also into less secure working and living conditions. After all, there has also been a qualitative change in the customer pool. Customers who are likely to visit Sonagachi despite enforced partial decriminalization are far more likely to be less risk averse and potentially more violent than before. One can analogize them to customers of street-based sex workers who,

according to Cameron and Collins, enjoy the pursuit and risks of kerb crawling at least as much as the sexual services (2003, 274). Also, as the tenant profile of Sonagachi changes, householders may object to the presence of existing sex workers and incite increased police action to expedite their departure. Sex work in Sonagachi would become less attractive, and some sex workers may in fact leave sex work altogether. Meanwhile, customers would be worse off due to higher prices and a relatively limited pool of sexual labor, so they would turn to their wives more, who would now have enhanced bargaining power in the marriage. As economists tell us, wives benefit from a tax on prostitution (Edlund and Korn 2002, 197), although it is perfectly plausible that men could turn to other nonmarital economies of sex or abstain from sex altogether.

To conclude, even if a policy of partial decriminalization were to be fully enforced, the positive implications for sex workers, if any, of criminalizing the sex industry are far from clear. There is a clear and desirable upside for *chhukris*. The loss of *selami* payments by brothel keepers and possibly lessees could be viewed as transitional costs, although the reduced prospects of becoming a brothel keeper would not deter a woman from entering sex work. Some *adhiyas* may borrow money at exorbitant rates to operate independently as the threshold to being a self-employed sex worker tenant becomes very high. However, the displacement of self-employed sex workers to less regulated zones for sex work comes at a cost. Self-employed sex worker tenants who stay on or work in Sonagachi would experience worse working and living conditions. The net effect of enforced partial decriminalization is essentially that there would be fewer sex workers in Sonagachi, but that sex workers as a group would be worse off.

So far, I have assumed that the amended ITPA would in fact be enforced. From my description of the current role of the police in Sonagachi as external stakeholders, however, it is far more likely that had the amended ITPA come into force, it would have been either unenforced or enforced with a tolerated residuum of abuse, larger or smaller, as the case may be. Since the threat of enforcement of the ITPA is directly correlated to a payoff in Sonagachi, increasing the costs of sex work through criminalization would mean that every relational dynamic in Sonagachi's sex market, including the labor, tenancy, and service relationships, would bear the burden of increased payoffs to the police. In other words, the increased costs of criminalization would be borne by sex workers who would now also have poorer bargaining power vis-à-vis internal stakeholders across the three relational dynamics.

### ■ Complete Decriminalization in Sonagachi

None of the policy proposals put forth by the Indian state or feminists have called for the complete decriminalization of sex work. This is indeed typical worldwide; governments are loath to simply repeal an anti-sex work law even

though a general criminal law like the IPC may contain provisions to protect the most exploited and trafficked sex workers. Alternatively, governments may want to introduce in its place employment standards ensuring occupational safety standards for women not forced into sex work. Still, sex workers who are deeply familiar with the potential of the state for violence and harassment have often simply called for the repeal of the anti-sex work criminal law so that sex workers can negotiate sex work transactions without the oppressive hand of the state. In this section, I examine the likely implications of the repeal of the ITPA for Sonagachi's sex market. Let us assume that the ITPA is repealed. Many other laws will continue to apply, including certain provisions of the IPC pertaining specifically to sex work (listed in chapter 1) and those not directed at sex work, such as against obscenity (Section 294). Let us assume for purposes of my current analysis that these laws are not enforced by the police in Sonagachi. What then are the consequences of complete decriminalization? Will sex workers be better off as sex workers' groups claim? Or will the domino effect predicted by abolitionists mean that droves of sex workers will enter the industry only to be exploited by unscrupulous brothel keepers and pimps?

### ■ The Effect of Complete Decriminalization on the Service Relation

Given the vast symbolic appeal of the ITPA and its extensive criminalization of sex work, its repeal would reduce police and goonda harassment in Sonagachi, resulting in the lower costs of accessing and performing sex work, benefiting all stakeholders there. Take the service relation, for example. Customers typically incur substantial search costs in terms of time and money spent and psychological costs from possible social embarrassment in accessing sexual services (Collins and Judge 2008). This is especially because accessing sexual services is unlike drug dealing where much of the business is repeat business and customers and dealers know how to find each other (Levitt and Venkatesh 2007). Some of these costs are also traceable to the legal risk of the accompanying regulatory environment (Collins and Judge 2008), the assumption being that customers tend to avoid risk and costs associated with riskier activities. Where a regulatory environment then lowers the relative risk or price of licensed sex or the overall time taken to access it, Collins and Judge argue that it will reduce the amount of unlicensed sex consumed. Although they consider only licensed and unlicensed illicit regulatory environments, their risk spectrum (*ibid.*, 299) suggests that complete decriminalization would be preferable from a customer's point of view to an unlicensed illicit regulatory environment.

With complete decriminalization, customers are faced with less uncertainty in finding sexual services. The payments they earlier made to dalals, including for protection from goonda harassment will reduce substantially. In the absence of prosecution under Section 7 of the ITPA for prostitution in a public place such as the red-light area, customers will pay fewer bribes to the police

to desist from enforcing the law. Moreover, although the “full expected punishment cost” from being discovered as a customer go beyond the possible imposition of state-imposed fines, to relationship costs, and possibly even its dissolution (Cameron and Collins 2003, 274), even customers with low thresholds for reputational losses are more likely to access sexual services in the red-light area than prior to the repeal. As the costs of accessing sexual services reduce, there is likely to be an upward shift in the demand curve. In other words, at any given price, more sex work is likely to be bought. With the legality of the service relation between customers on the one hand, and sex workers and brothel keepers on the other, they can formally enforce contracts for sex work against each other. It is unclear that they will resort to the courts, preferring to settle for more informal mechanisms, such as the DMSC-run self-regulatory boards and branch committees. The higher-end brothels of Agrawalis are, however, unlikely to defer to the DMSC, an organization of low-class sex workers in their view. As sex workers are no longer potential criminals, they will be more willing to report violent and abusive customers to the police. This will likely reduce the tolerated residuum of abuse against sex workers.

### ■ The Effect of Complete Decriminalization on the Labor Relation

How will complete decriminalization affect the supply of sex workers into Sonagachi? In the context of the DMSC’s agitation against the 2006 Amendment, I had occasion to pose this exact question to older sex workers and peer educators. They categorically stated that women would not enter sex work merely with the repeal of the ITPA. One woman said to me, “Which woman would want to go with ten men when she can go with one? Didn’t every woman want her own home and a peaceful family life?” Of course, they reiterated that a woman had the choice to do as she wished with her body, including sex work if need be, but also believed that women always sold sex out of *mujboori* (force of circumstance), not just because it was more lucrative than other occupations. Even if more women did enter sex work, they would pretend to be working as cooks or maids due to its stigma. When I discuss the increased supply of sex workers to Sonagachi, I mean precisely such women who are at the tipping point of deciding whether their current work is financially sustainable and who may choose to undertake some sex work to augment their income. Thus, women who may have considered doing sex work before, but refrained, will enter the sex market due to the reduced costs associated with goonda and police harassment in the red-light area. With an increased supply of sex workers across the board at any given price, more sex work is likely to be sold in the advent of the repeal than prior to it.

The more important question is under what conditions these women will sell sex in Sonagachi. With the repeal of the ITPA, the labor relation in the brothel becomes legal. Although brothel keepers running a brothel with



chhukris could be prosecuted under the IPC for trafficking and “unlawful compulsory labor,” unless the police strictly enforce these provisions, there will be an increased supply of trafficked chhukris. As maintaining a brothel with adhiyas will not be illegal anymore, older sex workers with secure tenancy rights who were earlier averse to running a brothel due to the risk of enforcement of the ITPA (even if small), may consider becoming brothel keepers. After all, there is likely to be an increased supply of sex workers to Sonagachi who will be in search of a brothel. As a result, the number of brothels and sex workers working in them is likely to increase with complete decriminalization. This will sustain a strong demand for properties in Sonagachi, which I detail below, with a resultant increase in rent, deposit, and selami levels. Adhiyas who were unable to afford pre-repeal selami levels will not be able to afford the higher selami post-repeal. Unable to go independent, they may continue to work as adhiyas. Similarly, flying sex workers who visit large brothels in Sonagachi to work as adhiyas may continue to do so, as they are not willing to take the risk of exposing their identity to their husbands and families by renting their own room in Sonagachi. Within brothels, on the face of it, the bargaining power of adhiyas will increase due to the legality of their contracts, although their enforceability may be impeded by Section 23 of the Indian Contract Act, 1872, which renders contracts against public policy void. However, if due to complete decriminalization supply exceeds demand in Sonagachi such that the price per shot falls, then adhiyas will likely be compelled to entertain more customers, and possibly in riskier conditions. On the face of it, decriminalization will likely increase the adhiya's mobility, although in reality she may move less between brothels than before if conditions in brothels are similar.

Complete decriminalization could increase the numbers of self-employed sex workers. Although high selami levels will continue to be an impediment to self-employed sex work with a secure tenancy interest, the numbers of flying sex workers who rent a room on commission may increase. Since brothel keeping is decriminalized, small groups of adhiyas with some savings who are resident in Sonagachi may leave brothels to pool their resources and rent rooms on contract from landlords and from older sex workers who prefer not to run brothels, despite its legal status, and thus work independently. Landlords, on the other hand, are unlikely to rent rooms to groups of sex workers on selami due to the potentially higher compensation payouts that sex workers may demand as a group when leaving the red-light area and the associated costs of managing a group of tenants when compared to a single tenant. Renting on contract to both individual sex workers and sex workers in groups is then likely to become more common. Some of these sex workers may eventually save enough to pay selami for a secure tenancy interest, unless selami becomes progressively unaffordable. Complete decriminalization could thus lead to an increase in small brothels consisting of self-employed sex workers who can gain protection from aggressive customers and share overhead costs, not unlike informal sex worker cooperatives elsewhere (Cameron, Collins, and Thew 1999, 1524).



## ■ The Effect of Complete Decriminalization on the Tenancy Relation

With the repeal of the ITPA, the tenancy relation becomes legal, resulting in the increased bargaining power of sex workers, lessees, and brothel keepers in relation to the landlord. They will demand rent receipts unlike prior to the repeal. The symmetry of illegality that held these stakeholders in check will be lifted so that they are more likely to pursue legal action against each other in the courts than before. With the repeal of the anti-sex work criminal law, one might expect that tenants from outside Sonagachi who were earlier put off by the criminality of sex work would want to rent rooms there. However, given the legality of sex work, and the accompanying increase in the amount of sex work being performed in Sonagachi than before, there will likely be an increased demand for properties from stakeholders within the sex industry itself, rendering the tenant profile of the red-light area unaltered. If anything, the red-light area will even “creep” outward as sex workers and brothel keepers explore the possibility of renting properties from existing grihastabaris or householders. Assuming that rent control laws are not enforced, the strong demand for properties will likely result in increased rent, deposit, and selami levels. Landlords who reside in their buildings may be tempted to lease properties on contract and even on commission to meet the increased rental demand. Ex-sex workers and lessees who have secure tenancy rights but are averse to brothel keeping may well demand higher rents and deposits of sex workers who rent on contract. Depending on the area of Sonagachi that they live in, they may consider renting rooms to flying sex workers on commission, especially if the landlord does not reside in the building. As far as sex workers are concerned, ultimately, the threshold to functional independence will increase.

## ■ Complete Decriminalization and Sonagachi's Sex Market

What effect will complete decriminalization have on the amount of sex work done in Sonagachi and its price? With the reduced costs of both selling and buying sexual services, there is bound to be a greater quantity of sex work performed. Formally speaking, sex workers will have increased bargaining power across all three relational dynamics due to the legality of sex work transactions. How much sex workers get paid, however, will depend on the relative increase in the levels of supply and demand. Should the increase in the number of sex workers irrespective of the mode of organization of sex work exceed the increase in demand, then the price per shot is likely to fall post-repeal than prior to the repeal. On the other hand, given the endemic discrimination against women and the attendant sexual double standards, we could equally assume that post-repeal, the increase in the supply of sex workers to Sonagachi will still be less than the increase in demand from customers. Under these circumstances, sex workers will likely earn a higher price post-repeal than prior to

the repeal of the ITPA. Irrespective of whether the price increases or decreases post-repeal, the reduced costs of police and goonda harassment will need to be set off against increased housing costs and the higher threshold to self-employed sex work with a secure tenancy interest than prior to the repeal. Yet the possibility of working in groups with other sex workers would reduce these costs somewhat while providing protection from abusive customers. Thus, complete decriminalization in Sonagachi will reduce harassment against sex workers and while increasing the number of *chhukris* and *adhiyas* will also increase the prospects for self-employed sex work individually and collectively, which may potentially increase sex workers' savings and reduce the length of their stay in the sector.

### ■ Legalization for Empowerment in Sonagachi: The Sexual Workers Bill and the Empowerment Bill

In the Indian context, there are at least three proposals for legalization for empowerment. Unlike conventional legalization, which regulates sex workers for the supposed benefit of society, legalization for empowerment is driven by a desire to realize the best interests of sex workers themselves. To illustrate, mandatory testing for STIs is a standard feature of conventional legalization, but those who advocate legalization for empowerment rule it out as being discriminatory against sex workers. All three proposals, namely, the Sexual Workers Bill, the Empowerment Bill, and the proposal put forth by the Centre for Feminist Legal Research embody this approach.<sup>7</sup> The three proposals differ substantially in terms of whether they call for the repeal of the ITPA or not, the extent of their use of the criminal law to create offenses to target abuse, the range of antidiscriminatory provisions they recommend to protect sex workers and their children, and the varying emphases that they place on specific aspects of workers' rights. Rather than discuss each proposal in detail, here I consider only the economic implications for Sonagachi of certain provisions from the Sexual Workers Bill and the Empowerment Bill, which call for the repeal of the ITPA and detail particular labor law protections for brothel-based sex workers. The third proposal by the Centre for Feminist Legal Research, in contrast, while supporting the application of industrial relations laws to sex work, does not list relevant beneficial provisions. Hence, I do not examine it here.

Note here that the Sexual Workers Bill and the Empowerment Bill were formulated without active sex worker input in the early 1990s as sex workers were just beginning to be formally organized in India. Yet the drafters of the bills, realizing that the effectiveness of the statutes should they come into force would depend on sex worker organization, built in provisions to enable such organizing. Sustainable sex workers' organizations like the DMSC are a reality today, and I have had the opportunity to consult community sex workers (rather than employees of the DMSC) on the desirability of these proposals.

A fundamental difference between the ITPA on the one hand, and the Sexual Workers Bill and the Empowerment Bill on the other, is that whereas the ITPA as a criminal law mandates certain kinds of activities as illegal, the two bills for the most part enumerate the rights of sex workers. In other words, it is only when sex workers complain against the violations of their rights or consequently sue for damages that their rights come alive, unlike in the case of the ITPA, where at least theoretically illegal activities are actionable *per se*. Sex workers may then choose not to act when the brothel keeper and customer do not meet their obligations, unless this failure triggers criminal penalties. To illustrate, a sex worker's right to insist on the customer using a condom provided for under the proposals would have been necessary in the early days of HIV prevention campaigns, when condom use had a strong negative relationship with the price per act so that a sex worker could lose up to 79 percent of her wages with condom use (Rao et al. 2003, 597). However, the condom usage rate in Sonagachi was 1.11 percent in 1992 but had increased to 81.87 percent by 2001 (Durban Mahila Samanwaya Committee 2004, 7). If anything, due to the high prevalence of condom usage, sex work without a condom in Sonagachi costs more than with a condom. Hence, when a customer now refuses to use a condom, a sex worker may claim damages against him under the two legislative proposals, but may well choose to do sex work without a condom for a premium price. Yet the provision may prove beneficial during periods of economic vulnerability induced by events like police raids when demand suddenly falls, leading to the increased competition among sex workers who are forced to work without condoms.

#### The Implications of the Sexual Workers Bill for Sonagachi

Prostitution is defined under the Sexual Workers Bill as sexual intercourse for monetary consideration or consideration measured in monetary terms, and a sex worker as a woman who has taken to prostitution "voluntarily and is doing the activity as an occupation." The definition of trafficking extends not only to the method of recruitment of women and children into sex work, namely, by buying, selling, and procuring, but also to "causing a child or woman to be so abused, prostituted or exploited by force, fraud, deceit, undue influence, or misrepresentation," in other words, sex work as well. Chapter 2 of the bill sets out a range of rights that sex workers have against the customer and brothel keeper upon violation of which the sex worker is entitled to damages, but the brothel keeper and customer are not criminally liable with imprisonment or fines.

The rights of sex workers against customers include the right to reasonable remuneration, the right to refuse a customer on the grounds of health, safety, or hygiene, the right to insist on the use of condoms, the right to refuse to entertain a noncomplying customer, and the right to claim damages from a customer for physical torture or sexual abuse, including unnatural intercourse, intercourse after being refused, and intercourse after getting intoxicated. A sex

worker can also claim damages from the customer for knowingly transmitting disease, willfully suppressing information that he has a duty to disclose under the bill, refusal to engage in safe sexual conduct, including using a condom, and finally, refusal to pay the full or part of the consideration for sexual activity.

Rights of sex workers against the brothel keeper include the right to safe and hygienic conditions of work and workplace. A brothel keeper cannot force a sex worker to entertain a customer that she has refused on the grounds of health, safety, and hygiene, or who refuses to use a condom. Further, the brothel keeper is to obtain necessary health information from the customer before passing it on to the sex worker. The sex worker has a right to a monthly medical checkup, the right to medical treatment, the right to refuse to end a pregnancy, to refuse customers during pregnancy, and to have paid medical expenses for delivery and for three months thereafter as against the brothel keeper. In the case of injuries sustained due to the violation of her rights under the bill, and on incapacitation due to STIs, the sex worker has a right to claim damages from the brothel keeper.

The Sexual Workers Bill defines the term “brothel” to mean any house, room, conveyance, or a portion thereof used for the purposes of prostitution, while the term “brothel keeper” is broadly described to include the owner, manager, person in possession of the brothel, and anyone associated, in whatever capacity, with the organization and management of prostitution. Based on these definitions, landlords and lessees of properties with no functional role in Sonagachi’s sex market, as well as self-employed sex workers with secure tenancy rights, could be construed as brothel keepers. While this expansive reading of the term brothel keeping to include landlords may have been meant to ensure that the working and living conditions of sex workers are well maintained, imposing a duty on the landlord as brothel keeper to inspect the health of customers would translate into consequences very similar to, and possibly worse than, partial decriminalization. Given that the goal of the bill is not abolition but to prohibit trafficking and “to confer rights on sexual workers with a view to prevent sexual exploitation and protect health and hygiene in sexual work,” I assume for the purposes of this analysis that brothel keepers are intended by the bill to cover only stakeholders with a functional role in the sex industry. The bill envisages an expedient and low-cost enforcement mechanism on the lines of a consumer redressal forum, while also providing for free legal assistance to sex workers and for complaints to be filed by the sex worker’s trade union. Mediation is also possible, should the sex worker be concerned or her trade union find it more effective. In the course of discussing these proposals with sex workers in Kolkata, they preferred to have disputes resolved locally or by the DMSC-run self-regulatory boards rather than by state courts. As it is, the DMSC organizes protest marches against physically abusive brothel keepers, and community sex workers are known to chase away violent customers or accost those who may have stolen from a sex worker or cheated her. The police often arrive too late to be of any use.

### The Effect of the Sexual Workers Bill on the Labor Relation

Assuming that the bill is in fact enforced, brothel keepers with chhukris will face imprisonment, which may extend to seven years, and a fine. Chhukris will be freed and these brothels shut down. Adhiyas can enforce their rights under the bill against brothel keepers and customers, while self-employed sex workers enforce their rights against customers. Despite the lowered costs of litigation, it is highly unlikely that individual sex workers will file complaints against brothel keepers or customers for a customer's refusal to use a condom or the failure to pay the full consideration or "reasonable remuneration," given the relatively low monetary amounts involved in a typical sex work transaction. The cases most likely to come up before the tribunal will relate to more serious injuries inflicted by the brothel keeper and sexual abuse and torture on the part of customers, including knowingly transmitting HIV. For sex workers to even bring such cases would require the full backing of the DMSC. Then there is a category of claims that pertains not to individual physical harm but to the environment, such as the brothel keeper's failure to provide safe and hygienic working conditions, which will have a significant impact on sex workers' lives in Sonagachi. However, exercising this right against brothel keepers who are themselves tenants will not be particularly effective, since brothel keepers and sex workers already contribute significantly to the maintenance costs of brothel buildings. Due to rent-control laws, landlords rarely feel the need to keep the buildings in good repair. The only visible renovation projects in Sonagachi are undertaken by Agrawalis who have significant income streams and need to meet customers' expectations. Even if the obligations relating to workplace conditions were enforceable against landlords, the increased costs of compliance will be passed on to sex workers. Alternatively, due to the increased demand for rental properties in Sonagachi as a result of legalization, which I detail later, sex workers may not be in a position to insist on the performance of these obligations.

Brothel keepers have certain mandatory obligations under the bill. These relate to determining the health status of customers and bearing the costs of monthly medical checkups, medical treatment, and pregnancy benefits for sex workers. Although medical costs in Sonagachi are subsidized to some extent by the DMSC's clinics, these are geared toward treatment for STIs and primary health care at best. Hence, brothel keepers will still bear substantial recurring costs for medical benefits. Any suit claiming damages for violation of this right would only increase the brothel keeper's outflow, especially if a sex worker claims incapacitation due to STIs, in which case the brothel keeper has to pay 100,000 rupees in damages.

If the bill is in fact enforced by the state with the assistance of the DMSC, the costs sought to be imposed on brothel keepers will mean that except for the largest and most profitable brothels in Sonagachi, the rest will need to shut down. To illustrate, when I shared the bill's provisions on the brothel keeper's mandatory obligations with roughly eighty-five sex workers from all over Kolkata at a workshop on labor law reform, they thought that the provisions were

highly impractical. In their view, given the short period for which customers visit sex workers, the brothel keeper may at best be able to persuade a tenth of the customers to agree to a health checkup. Moreover, older sex workers pointed out that the brothel keeper herself was too poor to fulfill the proposed obligations. To gauge the financial magnitude of these provisions, note that the 100,000 rupees payable by the brothel keeper in damages to a sex worker for incapacitation resulting from STIs is what she might herself expect as a rent-controlled tenant in compensation for leaving her room. Recollect that she views this as her retirement insurance, although I am not suggesting here that the sex worker deserves any less for the grievous harm caused to her. Hence, if the provisions relating to health benefits were enforced, brothel keepers with less than ten category B or C adhiyas would likely have to stop running a brothel. Faced with this situation, a brothel keeper may choose to leave Sonagachi. Alternatively, some may borrow money to run their brothels or pass on the increased costs of complying with the law to sex workers. However, this is not a long-term option, unless sex work becomes fundamentally more profitable; other brothel keepers may stop running brothels and rent out rooms to sex workers instead. Although this is less remunerative than running a brothel, it is far less expensive, since the bill does not impose obligations on the lessee to improve the living and working conditions in brothels. Besides, they could then still hope for a larger selami payout when they leave the room in the future.

With at least some brothels in Sonagachi shut down, sex workers from these brothels may join large, profitable brothels as adhiyas. For adhiyas in large brothels, while the conditions of work improve due to the screening of customers and the provision of medical benefits, some portion of these increased costs are likely to be passed on to them. Meanwhile, the flying sex workers who work as adhiyas in such brothels on a daily basis are typically wives with a low threshold for reputational losses. Not resident in Sonagachi, they have little choice but to continue to work in these brothels despite the increased costs. For a residential adhiya on the other hand, the decision to leave the brothel will hinge on her assessment of whether she can replicate similar conditions of safety and customer flow if she were to operate independently or with other sex workers. With sex work being legal, she may prefer to work independently along with other sex workers than pay a premium for better working conditions in a large brothel. She may borrow money individually or pool resources with other sex workers to rent a room on contract and become self-employed. For adhiyas who become self-employed on leaving an affluent brothel or a brothel that has shut down, their net income increases from not having to share it with the brothel keeper. Even as independence brings increased rental costs, this is set off for sex workers living and working together who share overhead costs.

Meanwhile, all sex workers will benefit from reduced goonda harassment and no payoffs to the police. Litigation against abusive brothel keepers and customers will address the worst forms of abuse, and while a tolerated residuum of abuse will continue to persist, working conditions on the whole will improve. Abusive customers are unlikely to be deterred by the bill, although at least some

may, fearing litigation, refrain from abusing sex workers or be put off by its mandate to publicize names of customers against whom awards for damages are made. Hence, as the overall conditions of sex work improve, there may be a pronounced increase in the numbers of women entering the red-light area to do sex work.

#### The Effect of the Sexual Workers Bill on the Tenancy Relation

With the collapse of smaller brothels, there is no assurance that the landlord will compensate brothel keepers at the current levels of selami should they want to leave Sonagachi. If anything, when the new law is enforced, sensing their predicament and anticipating their desire to move, landlords may be in a better bargaining position, resulting in lower compensation payouts to brothel keepers leaving the red-light area. Having struggled to get such tenants with secure tenancy interests to leave their rooms, the landlord is more likely to lease out his rooms to self-employed sex workers on contract or on commission. Unless he resides in the building and is willing to monitor tenants on commission, renting on contract is more probable. With sex work becoming legal, although one might expect grihastabaris or householders to be interested in renting in Sonagachi, they are unlikely to do so. Assuming that adhiyas either individually or in groups replace brothel keepers as tenants and that large brothels expand by absorbing at least some adhiyas, the demand for rental properties in Sonagachi will not fall. It may in fact increase due to the influx of sex workers, which I describe below. Consequently, the selami, deposit, and rent levels will likely increase. Flying sex workers and independent sex workers renting on contract will likely pay increased rents, while the threshold to self-employed sex work with a secure tenancy interest will increase.

#### The Effect of the Sexual Workers Bill on the Service Relation

With the legalization of sex work, there will be an initial spike in both demand and supply levels, as with complete decriminalization. As the bill is enforced, however, demand and supply levels will begin to stabilize. Chhukris will be eliminated from Sonagachi. However, for reasons outlined above, the numbers of adhiyas and self-employed sex workers, particularly flying sex workers visiting Sonagachi during the day, will increase. As for demand, should brothel keepers decide to pass on the costs of ascertaining customers' health status to them—say in the form of a flat fee—the costs of buying sex will increase. However, anticipating the fall in demand due to increased regulation, brothel keepers are likely to bear these costs themselves. Still, to the extent that compliance with the law requires the cooperation of customers, the new law will impose some additional cost on customers: an inspection of their physical condition at the very least and possibly some record of their health for the future, which, unless kept confidential, is a huge source of worry for customers, especially those



with a low threshold for reputational losses. Customers who value medically vetted sex workers are more likely to continue visiting brothels. Customers who find the increased regulation unpalatable or are fearful that they will be rejected by the brothel will likely refrain from visiting Sonagachi, opting instead for a market like street-based sex work, which is outside the ambit of the bill. Alternatively, they will turn to self-employed sex workers in Sonagachi who may inspect customers' health out of self-interest but are, unlike brothel keepers, not obligated to do so. This may result in slightly more demand for self-employed sex workers, increasing the rate per shot. The Sexual Workers Bill will thus likely create two submarkets within Sonagachi. The first will likely be comprised of the big brothels where the health of both sex workers and customers is monitored with both being highly risk averse so as to be agreeable to the increased costs of regulation. The second submarket will consist of self-employed sex workers and small collectives of sex workers whose health is legally not required to be monitored and who are visited by customers who are less risk averse, at least in health terms, than the customers visiting the larger brothels.

The effect of the increased supply of sex workers and the demand from customers on the price per sex work transaction in these two submarkets when compared to prelegalization levels is unclear. On the assumption that customers prefer less risk than more, Collins and Judge claim that a policy to lower the relative price or risk of licensed sex will tend to reduce the amount of unlicensed, illicit sex consumed (2008). Thus, they assume the existence of a licensed market and an illicit one, whereas in Sonagachi under the Sexual Workers Bill, both submarkets that I have identified will be legal, so that the increase in the size of one submarket is not at the cost of the other. To elaborate, we can assume that since resident sex workers prefer being independent and self-employed to working in a brothel where they bear at least some of the costs of the improved work conditions, that if anything, despite legalization, the increase in the supply of sex workers in brothels will be less than the relative increase in customer demand. This will mean an increased rate per shot when compared to prelegalization levels. In the legal but unregulated market, on the other hand, there will likely be an increase in the number of both self-employed sex workers (who were earlier in brothels) and flying sex workers from other parts of Kolkata. This increase in supply post-repeal is highly likely to exceed the increased demand from customers, in which case the price for sex work transactions in this submarket is likely to fall when compared to prelegalization levels. This analysis suggests that between two legal submarkets in sex work in the same red-light area, the costs associated with medical checkups function as a tax, so as to drive both sex workers and customers into the unregulated sex market.

#### The Effect of the Empowerment Bill on the Labor and Tenancy Relations

The Sex Worker (Legalisation for Empowerment) Bill, 1993, is the second model for legalization for empowerment. It gives the sex worker the right to be paid a



minimum remuneration by the customer, which is to be fixed under the federal minimum wage legislation in consultation with the local collective of sex workers, which they have an option of forming under the bill. Should the brothel keeper, pimp, or any other person collect this payment, they are obligated to hold it as a trustee and turn it over to the sex worker in its entirety, even if it exceeds the minimum wage, as soon as possible. Any violation of the sex worker's right to receive or retain the payment is deemed to constitute abuse under the bill, entailing a punishment of seven years' imprisonment, a fine, and/or damages under civil law. Thus, the sex worker's right to be paid a minimum wage is not optional but is actionable *per se* in case of violation.

Let us assume that the Empowerment Bill is in fact enforced with the assistance of a proactive police force and the DMSC's self-regulatory boards and branch committees. Brothels with *chhukris* and *adhiyas* would be the most affected by the wage-related provisions of the Empowerment Bill. The implications of these provisions for the tenancy and labor relations would be similar to those of the Sexual Workers Bill; hence, I will emphasize only the points of difference here. Under the Sexual Workers Bill, brothels could not sustain themselves financially due to the increased costs of health surveillance and providing health benefits. The Empowerment Bill produces a similar result due to the drastically reduced income from sex work with only a marginal reduction in the preexisting costs of running a brothel, attributable mainly to reduced harassment from the police and goondas. The bill effectively renders the *chhukri* and *adhiya* arrangements illegal because it requires payment of the full remuneration, even if there was a preexisting agreement for the management of the sex workers' funds or any liability of the sex worker to any person. Thus, even if a *chhukri* works for a brothel keeper to pay off the advance that her family has received, or because she mistakenly believes that she is indebted to the brothel keeper, she is entitled to a minimum wage under the bill. This will erode any profits that a brothel keeper makes from *chhukris* and *adhiyas*. Assuming that these provisions are strictly enforced, brothel keepers would either leave the red-light area hoping to be compensated by their landlords or take to renting out rooms on contract or commission to *ex-adhiyas*. Borrowing capital to run brothels would be futile because the bill clearly eliminates any economic role for brothel keepers. Under the Empowerment Bill, large and profitable brothels will also be affected and will likely need to shut down, unlike under the Sexual Workers Bill. As self-employed sex work becomes the norm, both *ex-adhiyas* and flying sex workers will be eager to rent properties individually or collectively on a contract and commission basis, respectively. Some *ex-adhiyas* will continue to save enough money for a *selami* payment. Flying sex workers who preferred to work as *adhiyas* in large brothels rather than independently, given their marital status, will most likely exit sex work. The demand for properties in Sonagachi will likely remain strong while the threshold to becoming a self-employed sex worker tenant with a secure tenancy will be higher than prior to the enforcement of the new law due to higher *selami* and rent levels.

Due to the legalization of sex work, the costs of doing sex work in Sonagachi should come down, with reduced harassment from goondas and no police payoffs. Violence from customers will also reduce as the bill has provisions that target sexual abuse, which we assume for this analysis will be enforced. With the benefits of labor law protection available in a traditionally unorganized sector like sex work, even women with a relatively low threshold for reputational losses, or women who were earlier risk averse, may enter sex work. The decreased costs, higher income, and better conditions in sex work will partially offset the increased costs of housing and other setup expenses. Some of these expenses can be shared by small collectives of sex workers working in the red-light area. Although the number of sex workers in the red-light area will initially be lower than prelegalization levels with the exit of *chhukris* and flying sex workers who worked as *adhiyas* in large brothels, this will likely increase due to the influx of flying sex workers, as well as sex workers who may have earlier worked as *adhiyas*. This is in addition to the existing self-employed sex workers with secure tenancy interests and those renting on contract from a nonfunctional intermediary.

#### The Effect of the Empowerment Bill on the Service Relation

Let us consider the impact of the minimum wage requirement on demand. Sonagachi's customers are a heterogeneous group and tend to patronize those sex workers in the red-light area who they view as corresponding to their own class status. Given this, the minimum wage requirement will hardly affect wealthier customers and self-employed A category sex workers but will likely impact self-employed B and C category sex workers and their customers. The legalization of sex work undoubtedly reduces the costs of both buying and selling sexual services and will initially likely produce a sharp increase in demand. However, for customers, reduced costs are offset by the need to pay minimum wages which may reduce some demand for sex work. There may also be a fall in demand owing to customers who prefer to visit brothels than negotiating directly with sex workers working individually and in collectives. Assuming that there is a net increase in the supply of sex workers, this could mean that although the total amount of sex work done in Sonagachi is greater than prelegalization levels, the price per sex work transaction is likely to be lower than prior to legalization. Yet, sex workers will now likely keep more of their income than they previously did.

Interestingly enough, in all my interviews with sex workers in the community or with older sex workers working at the DMSC, they were averse to the notion of a minimum wage. There were several reasons for this. One was the sheer range of the bodily capital of sex workers, which some economists problematically refer to as "substantial product heterogeneity" (Gertler, Shah, and Bertozzi 2005, 522). Where customers' tastes are also highly heterogeneous, the sex workers I spoke to could not imagine fixing a universal minimum rate. This

is despite the fact that the minimum wage is a price floor rather than a price ceiling. Further, sex workers argued that a minimum wage was not appropriate since customers were often poor themselves. Sex workers perceived that demand was already low in red-light areas, and any fixed rate policy, of which the minimum wage is a type, would drive away customers, proving even more harmful than the condom promotion programs that were first mooted in the early 1990s. In other words, demand would fall with a fixed rate policy (Gonzales et al. 1999, 99). This apprehension extended to any conceivable demand placed on customers, including a welfare-cess (tax), which could be aggregated for sex workers' benefit. This anxiety suggests that sex workers would be highly motivated to bargain below a minimum wage in the event of legalization, with the result that the total demand from customers may not drop, and may, in fact, stay steady if not increase, affecting the price per sex work transaction accordingly.

### ■ The Paradoxes of Regulation Revisited

In the analysis so far, my goal has been to simply outline the highly disparate consequences that policy positions that we take for granted can have on the ground, rather than advocate complete decriminalization or legalization. These consequences follow partly from the undue coherence we attribute to these policies in the sex work debates and the assumption we make that all sex workers have common interests. Legislative proposals in reality exhibit complex interplays of different sets of legal rules, each calculated to have certain effects; sometimes the subtext of the explanatory notes runs contrary to the stated goals of the proposed law itself. A legal realist analysis, then, reveals not only these interpretive ambiguities, but also their varied consequences on different categories of sex workers occupying a legally plural field. To elaborate, with some basic understanding of the organization of sex work in Sonagachi, we are able to predict that partial decriminalization will reduce the quantity of sex work there, but that self-employed sex workers who remain will be worse off. With both complete decriminalization and legalization, the formal bargaining power of sex workers across all three relational dynamics improves. In complete decriminalization, brothels will continue to exist by employing *chhukris* and *adhiyas*. It will, however, also allow for more sex workers to become self-employed and work collectively in small groups, but will increase the threshold to independence with a secure tenancy interest. The reduced costs of sex work in terms of harassment and payoffs will be set off by increased rents, although sex workers working collectively can share overhead costs, thus retaining more of their income from sex work. With both models of legalization for empowerment, the *chhukri* system will be abolished. With legalization for empowerment involving the minimum wage requirement, brothels with *adhiyas* will also be shut down. Thus, with legalization we will have a greater quantity of

sex work being performed than before, with reduced harassment but increased costs from higher rents, deposits, and selami levels offset to some extent by the possibility of collectives of sex workers working together. In both complete decriminalization and legalization, the effect of the legal reform on the price per sex work transaction varies based on the relative increase in the supply of sex workers vis-à-vis the demand from customers. A word of caution is, however, warranted here. I have assumed complete legal enforcement for my distributive analysis. Yet even in comparison to other illegal economies like drugs, the criminal justice system is known to have a relatively minor effect on prostitution activities (Levitt and Venkatesh 2007, 4). If anything, as Duncan Kennedy has pointed out, the legal system actually generates violence in sex work rather than tolerate abuse, as in the case of sexual abuse like rape (1993, 174). In the Indian context, the police not only engage in rent-seeking arrangements like their Western counterparts, but are also known for their capacity for enormous violence against marginalized social groups. Against this backdrop, the proposals for complete decriminalization and legalization may well have a range of consequences quite different from the ones I have indicated. In conclusion, I have delineated in this chapter the unpredictable consequences of formal state law on sex markets. Where does this leave feminists desirous of law reform? It is to this task that I turn in chapter 7, by reflecting on prospects for a postcolonial materialist feminist theory of sex work animated by the political desire for redistribution.

### **Toward a Postcolonial Materialist**

### **Feminist Theory of Sex Work**

In this concluding chapter, I tentatively outline what a postcolonial materialist feminist theory of sex work might look like. My starting point is an examination of the objections posed to the work position by radical feminists, many materialist feminists, and middle-ground feminists. Without claiming to speak for the Indian sex workers' groups that I have worked with, preferring to speak "after" them, as Spivak exhorts us to do (2006), I articulate their response to the questions that feminists have justifiably raised. I do this not in a celebratory tone or to posit a postmodern voice for sex workers (Bell 1994). Instead, I view their demands for workers' rights as initiating the far more difficult process of asking redistributive questions within the sex industry. I address the macro-economic setting for this effort by forefronting the postcoloniality of Indian sex markets. I do this by interrogating the assumptions that both radical feminists and postindustrial feminists make of the space of capital in which these markets operate, especially through their use of transition narratives to characterize South Asian sex markets as feudal and as a proxy generally for the region's political, economic, and social backwardness. Then, at the more intermediate level of the micro-political economy of sex markets based on my ethnographies of sex work in Sonagachi and Tirupati, I reflect on the possibilities of a theory of exploitation to address the question of redistribution. Finally, drawing on chapter 6, I articulate the relationship between demands for recognition, redistribution, and regulation in light of the struggles of the Indian sex workers' movement.

#### ■ The Work Position Revisited

In chapter 2 I pointed out many of the arguments put forth by both abolitionists and sex work advocates on the question of whether sex work should be

treated as a form of work. Radical feminists view sex work as an irreducible instance of gender inequality and sexual violence wherein the harms of sex work are irreparable, warranting nothing less than abolition. Materialist feminists share many of the radical feminist objections to sex work, including the alienation, coercion, and domination it involves, and its commodification of sex. A broad-brush view of the materialist feminist genealogy of sex work, which I have presented in chapter 3, suggests that materialist feminists initially refused to acknowledge female sexual labor and displayed considerable commodification anxiety. As they developed a theory of reproductive labor, however, there was less commodification anxiety and an increasing recognition of the sexual labor inherent in sex work, but also a resolute opposition, barring Fortunati, to its treatment as a legitimate form of work. In addition to the critique of radical feminists and materialist feminists, I also consider here the objections of contemporary middle-ground feminists. Their specific critique pertains to an interrogation of the social usefulness of sex work as a form of labor, as well as its illegality, its gendered nature, and the harm that it causes sex workers.

As for the response of sex workers, over the past fifteen years, Indian sex workers' groups have mobilized in various parts of the country to articulate their view of sex work as a form of labor that ought to be socially if not legally recognized as work.<sup>1</sup> While they do not claim to have a neatly worked-out theory of sex work, there is enough in their writings to begin to remedy the undertheorized nature of the work position. In particular, they reveal reflections on sex and female desire, sex work as a useful form of labor, the labor market in which it is embedded, the labor and class processes that structure it, and why it should be viewed as work. Also important, like feminists and sex workers' groups elsewhere in the developing world,<sup>2</sup> Indian sex workers view themselves not as liberal promoters of the sex industry, but as drawing on existing traditions of materialist feminism to problematize the structural forces that disadvantage them. While the views reflected here of the NNSW are hardly representative of all Indian sex workers, they are no less representative of the latter's interests than feminists generally are of women's interests.

The one substantial difference between feminist objections to sex work and sex workers' own response pertains to a theory of sex and female desire that has been less forthcoming, if not absent, in feminist theorizing in India and elsewhere.<sup>3</sup> Showing little commodification anxiety, sex workers argue that sex is not special or sacred and can be used as a source of power and income to undermine structures of power (VAMP and SANGRAM 2007, 326). Even if sex were special like knowledge, they argue, the fact that singers and teachers are paid for their knowledge, a valuable treasure, suggests that sex workers can also be paid for sex (Jameela 2007, 113). But beyond the immediate question of sex work itself, they are also interested in pleasure and female desire. In fact, Nalini Jameela, the first Indian sex worker to write an autobiography, attributes feminists' inability to accept sex workers to their failure to recognize sex as a woman's need as well (2007, 111). Thus, there is an unmistakable strand of

sex radicalism in the sex worker literature, exemplified in its slogan, “We want bread. We also want roses!” (Durbar Mahila Samanwaya Committee 2001, 75) and its call for a theory of pleasure in the way that Marxism offered an analysis of labor and production (*ibid.*, 72). At the very least, there is certainly a desire among sex workers’ groups to destabilize the hierarchies of acceptable sexual practices (Rubin 1984, 281–82). This was evident at the Indian Social Forum in 2006 where activists called for the free exercise of sexual choice, whether for pleasure, livelihood, or procreation, and for sexual diversity outside the folds of heteropatriarchal marriage and family (Dhar 2006). At a mobilizational level, sex workers’ groups have for long been inclusive and supported the rights of sexual minorities, including gays, lesbians, transvestites, transgendered men and women, and transsexuals, a fact that is amply evident at NSW’s annual conferences, protest rallies, and political events.

### ■ Theorizing the Labor in Sex Work

In a critique of sex workers’ attempts to place sex work on a par with other forms of female reproductive labor, feminists sympathetic to the rights of sex workers but hesitant to endorse the work position ask if female “sexual labor” is a unique kind of labor, having specific kinds of social usefulness and/or demanding skills possessing economic value (Sunder Rajan 2003, 140). Even assuming that sex workers are able to articulate the needs of their customers in socially useful terms, as Western sex work advocates have, these feminists insist that we pay attention to the socially constructed nature of desire (O’Connell Davidson 2002, 92–93) rather than simply assume that just because male needs exist, that in satisfying them, sex workers are engaging in socially useful labor. In assessing sex work in these terms, feminists are conscious that there are forms of predominantly female labor that may not in fact satisfy this high evaluative standard. O’Connell Davidson, for example, argues that it is indeed problematic to justify the importance of certain kinds of domestic labor that are consumed to maintain and enhance the status of both privileged men and women, rather than meet essential needs. To illustrate, citing Anderson, she speaks of employers who required their maid to clean the anus of their pet after defecation and asks if this is socially useful (*ibid.*). Sex work is somewhat like cleaning the anus of a pet, O’Connell Davidson observes; there is no social honor in it. All of this builds toward O’Connell Davidson’s critique of sex work advocates, who in asserting that sex work has social value, she says, delink the sex worker subject from a highly unequal set of political, economic, and social relations. Further, in O’Connell Davidson’s call to sex work advocates to come up with a theory of sex work that is relevant to more than a privileged minority of first world women, she implies that even if Western sex work advocates and sex workers were in fact right about the social value of sex work performed presumably by women like Bernstein’s university students, it could not plausibly be

true for third world sex workers, most of whom have been driven into sex work by “dull economic compulsion” (ibid., 94).

As I noted in chapters 4 and 5 on Sonagachi and Tirupati, the terms that sex workers used to describe their own occupation even prior to the arrival of HIV prevention initiatives were organized around the motif of labor and work. The literature of sex workers’ organizations is permeated throughout by their understanding of themselves as responsible workingwomen. Sex workers perceive themselves as breadwinners who resort to sex work as a survival strategy, parallel to any other occupation (VAMP and SANGRAM 2007, 325). The burden of finding a job, they say, is largely the woman’s burden, and finding this job often means having to please a few people, at which point she is less interested in being a faithful wife than in supporting her family (Jameela 2007, 139). As Devika notes, the fact that Jameela in her autobiography rejects a definition of herself in terms of sex work, preferring instead one in terms of labor, demonstrates the distance between elite-centered notions of womanhood and the female laboring poor in Kerala (2007, viii).<sup>4</sup> The very women driven into sex work by “dull economic compulsion” are more than cognizant of the structural conditions that situate them thus, and it is from this perspective that sex workers articulate the work position.

In terms of the actual labor involved in sex work, sex workers claim that it is not limited to sex and could merely be caressing, seeing, and touching, in which case sexual and other caregiving services cannot be distinguished.<sup>5</sup> As Jameela observes, “love, care, comforting—trying to assess how much of this is physical and how much is mental is a barren exercise” (2007, 114). The inability to fix the manual and service-oriented aspects of the labor in sex work does not render it substantially different from other forms of female reproductive labor, like housework and care work. Similarly, the DMSC views sex work as manual labor (Durbar Mahila Samanwaya Committee 1998, 71), as a service that satisfies a social need (ibid.), as therapy and as entertainment (ibid., 94). Sex workers thus identify their own sexual labor as labor having specific kinds of social usefulness and demanding skills that possess economic value.

In terms of the labor market setting, unlike sex workers elsewhere who articulate a professional status (Bernstein 2007a), Indian sex workers claim to engage in an occupation/business (*dhandha*) rather than a profession (*vyavasay*) (VAMP and SANGRAM, 2007, 325). For them, sex work could well be a time-bound occupation that they engage in along with other means of livelihood. Moreover, sex workers’ preferred frame of reference for assessing their work is the informal economy or the unorganized sector, where they work under considerably unequal bargaining conditions on a par with domestic workers, scavengers, street vendors, home workers, and, more recently, entertainment workers such as bar dancers.<sup>6</sup> To quote Jameela, “When we talk of work as a ‘profession,’ that doesn’t mean that we always enjoy doing it. For example, take a construction worker. No one takes up that kind of work saying that it is enjoyable, and that one is doing it so that one can admire the beauty of the building



slowly rising up! The fellow who does scavenging work for the Municipality does the job for a living. Sex work is a little above these two kinds of work" (2007, 112–13).

For Jameela, sex workers were better off compared to construction workers because they kept more of their earnings and could earn it within a shorter period of time. More generally, one gets the sense from sex worker writings that our understanding of work as nonalienated labor that is dignified, creative, and satisfying presupposes a certain class position. Sex workers' understanding of work in general could well be attributable to their jobs prior to sex work, including domestic work and work in factories, small businesses, as daily laborers, and as assistants in hospitals and nursing homes (Durbar Mahila Samanwaya Committee 1999b, 58). Sex workers used their experience of constant sexual harassment in such prior work, especially in domestic work, to justify their decision to do sex work, because at least in the latter they could get paid for sexual services (Durbar Mahila Samanwaya Committee 2002, 25).<sup>7</sup> Similarly, women who visited red-light areas to do sex work came from working as helpers to masons, construction laborers, and other day laborers where they had to provide sexual services in order to be given manual work (Jameela 2007, 117; Shah 2006b; Durbar Mahila Samanwaya Committee 2002, 17–18, 19–25). Sex workers claimed that in sex work, they were paid more than for other poorly paid respectable jobs that demanded sexual favors of them anyway. Contrary to the feminist claims that sex workers valorize the social value of sex work by being oblivious to the power relations inherent in structurally similar sectors like care work or domestic work, Indian sex workers' groups are deeply familiar with the inequalities that permeate sex work and other livelihoods in the unorganized sector.

Let us assume for a moment that since sex workers' self-understanding of the social value of sex work only underscores the abject nature of other available work options, it hardly points to the social value of sex work. Let us even assume that only some sex work can satisfy "real" human needs and that the rest of commercial sex work does no more than to pander to the socially constructed sexual "needs" of men. After all, sex workers themselves do not problematize male sexual need but reiterate assumptions about the inevitability and irrepressibility of male sexual desire, which, if unchecked, would jeopardize women's safety. In fact, Jameela compares sex workers with scavengers, claiming that just as no one demands scavengers' rehabilitation, as this will diminish public hygiene, so, also, sex workers clean society of sex-deprived men who pinch and prod women on the sly (2007, 113). Yet we might ask if sex work by any means is unique enough to be dismissed as having no social value when compared to other forms of work. Surely, social value, especially once we acknowledge its social constructedness, can hardly provide a useful index for gauging any form of labor in contemporary society except for identifying the essential and ludicrous extremes of social utility. As Agustín notes, necessity is a subjective term (2007a, 55). Take O'Connell Davidson's own examples. Just as

no one can debate the social honor or essential utility of changing a baby's diaper, neither can they dispute the ludicrous nature of having to wipe the anus of a pet that has defecated. On this scale between the essential and the ludicrous, sex work, like most other forms of labor, falls somewhere in between. So while sex workers are not necessarily critical of male sexual need, they fully recognize the conditions of the structural inequality under which they need to make a living. The feminist call for evidence of a higher threshold of social utility of sex work therefore needs to be rethought.

### ■ The Work Position Problematicized

Opposition to the work position is based on three grounds articulated by feminists, namely, its illegality, its gendered nature, and the Harm that it causes sex workers. Sunder Rajan argues that the paradoxical interests of the state in sex workers' labor (i.e., the need to maintain a pool of female sexual labor for men while at the same time protecting public health) results in its criminalization. She worries that as long as sex work is associated with crime, health hazards, and other antisocial aspects, it will be hard to normalize it legally or professionally within the protocols of normative, that is, socially useful and productive "work" (2003, 137). For other feminists, illegality is also indicative of exploitation. Larson and Hernández-Truyol cite Article 3(c) of the Convention against the Worst Forms of Child Labor, which prohibits child labor when children are used, procured, or offered for illicit activities, in particular for the production and trafficking of drugs. From the illegality of sex work, then, follows its exploitative nature and therefore the need to abolish it. Radical feminists also assume the presence of organized crime in pornography, the strip club industry, and the sex industry (Jeffreys 2009, 72, 91). There is thus an understanding of sex work as exceptional and inherently harmful, and of customers, pimps, and brothel keepers—if not sex workers—as predisposed to criminal activities. It is precisely this conflation of sex work with transnational organized crime that informs present-day law reform initiatives of national governments and international bodies.

Despite such assumptions, however, states' decisions to criminalize activities are highly contingent rather than preordained, as is evident in the case of both conventional crimes and regulatory offenses. Similarly, even assuming for a moment that the work of child laborers and adult female sex workers can be realistically compared,<sup>8</sup> the Convention against the Worst Forms of Child Labor itself uses a fairly narrow articulation of illicit trade, namely, drug trafficking, which is universally criminal, unlike sex work, which has attracted a broader range of legislative responses not solely limited to criminal law. Finally, as I have shown in the case of Sonagachi, and as borne out in other settings (Zatz 1997), criminal activities are at least partly a result of the characterization by the law of certain activities as illegal rather than the inherently "criminal"

nature of the activity itself. In this context, we must not lose sight of the capacity of the Indian state under the pretext of using the criminal law to perpetuate violence against sex workers and marginalized communities more generally. It is not for nothing that sex workers in AP view policemen as “snakes” of the industry. Thus, the so-called criminality of the sex industry is often the result of both a contingent decision on the part of the state to criminalize sex work, as well as the ensuing violence—both from the state and other stakeholders—that this criminal treatment produces.

The second and most persuasive objection to characterizing sex work as work is its gendered nature, in that its gendered demography is not incidental but constitutive (Hernández-Truyol and Larson 2002, 191). This is indeed the crux of the radical feminist argument that sex inequality is the foundation of the sex industry. Since women dominate the sex industry, sex work becomes feminized and is therefore economically devalued (Hernández-Truyol and Larson 2006, 441). Moreover, women in the sex industry, far from availing of the economic benefits of their work, form a part of the unorganized sector that is increasingly bearing the risks of a globalizing economy (Sunder Rajan 2003, 141). More important, sex work reinforces cultural values of women as having little worth other than as sex objects, hence sex work may be an obstacle to nondiscriminatory access to work (Hernández-Truyol and Larson 2001, 28–29; Satz 1995, 64; Overall 1992, 721; Shrage 1989, 347, 349, 352). The sexual accessibility that sex workers represent creates in men a certain disregard for what women want from sex (Hernández-Truyol and Larson 2006, 441; 2002, 205). Further, prostitution injures the collective interests of women because sex workers are willing to part with sex for the lowest possible price—and under conditions that other women will not accept (Hirshman and Larson 1998, 291).

In response, the gendered nature of sex work, while a legitimate concern, is not unique to the sex sector. Also, there are several other instances of human behavior that may be invasive, offensive, undermine intimacy in relationships, and perpetuate male dominance, but that are not criminalized or morally opposed (Nussbaum 1999, 290–91). As for the strikebreaker argument, if anybody was hurting the market for sex, it is wives who part with it for free. Instead, sex workers are rendered scapegoats, as patriarchy’s sexual double standards are reinforced. Similarly, sex work is not the only occupation in the unorganized sector occurring against the backdrop of international capitalism. After all, 92 percent of the Indian working population is in the informal economy. Even in the West, the lack of autonomy is a pervasive problem of labor, not one that is peculiar to sex work (*ibid.*). If anything, as O’Connell Davison notes, sex workers at the apex of the “prostitution hierarchy” may well exercise as much choice as many wage workers exercise over their work (1999, 105).

In light of this, it comes as no surprise that feminist objections to sex work on the listed grounds are unable to articulate why we should treat it any differently from female labor in several other labor markets, including those with a majority of “pink collar” jobs, which are structurally similar to the sex industry.

To illustrate, consider how abolitionists treat paid domestic work and care work, both female-dominated labor markets. Domestic work shares considerable structural similarities with sex work (O'Connell Davidson 1999, 202), including their nonrecognition as work, workers' low bargaining power, and the constant supply of poor women who are willing to enter both occupations, thereby undercutting any attempts at solidarity (Wrigley 1991, 328). Yet, Jeffreys claims that domestic work is different because fewer women are trafficked into it, it is socially necessary (2009, 19), it is exchanged in ongoing social relations (Shrage 1994, 91, quoting Overall), it is not dependent on women's biology and oppression, and it can be performed by men (Jeffreys 2009, 12). Sex work, on the other hand, the argument goes, caters to a socially constructed male need (Jeffreys 2009, 19), cannot exist independently of capitalist and patriarchal relations (Overall 1992, 718), and does not involve emotional labor, because sex work produces dissociation between mind and body (Jeffreys 2009, 21). Yet one only has to consider the plethora of reports from organizations such as Human Rights Watch on the horrific abuses that migrant domestic workers suffer, including being trafficked and working extremely long hours under harsh conditions. Further, paid domestic work is a market with a largely female workforce built on conventional gender roles and the supposed superiority of females in domestic and care work. Perhaps it is this superiority, Agustín notes, that produces an expectation that it is okay for women to work in "feudal, exploitative employment" (2007a, 57). So is domestic work any less dependent on women's biology than sex work? One might also ponder over whether the mundane repetitive tasks involved in domestic work, whose social necessity is in doubt, do not produce dissonance in domestic workers. Moreover, it is not clear how abolitionists conveniently dismiss the arguments of sex work advocates who claim that men also do sex work, but treat domestic work differently when it is overly female, with only a miniscule number of male domestic workers. Note here that despite the inability of materialist feminists to treat sex work as work, unlike radical feminists, they are far from romanticizing traditionally female forms of labor. Also missing here is what lies in store for sex workers who agree to rehabilitation, for governments to date-orient their rehabilitation programs in terms of training them for domestic work, knitting, sewing, making handicrafts, and the like.

The third objection to the work position is that sex work causes harm. Its fundamental harm inheres in the violence of objectification and commodification. As D'Cunha observes, "whether or not prostitution is characterized by choice, the very condition of commodification of sex and women's bodies, and of distancing of the sexual experience involving the most personal and erotic parts of one's physical and psychic being from the total person, is indicative of the alienation and dehumanization of the woman in prostitution" (1997, 243). To the extent that commodification presumes some form of objectification, it may be productive to examine processes of objectification in day-to-day incidents of sex work in Sonagachi and Tirupati. As mentioned in chapter 2,

Nussbaum characterizes objectification as involving ownership, fungibility, instrumentalism, violability, and the lack of autonomy, agency, and subjectivity. Applied to the “multivalent commodity” of sex (Joseph 2005, 394), Nussbaum argues that radical feminists assume that any instrumentalization of the female body necessarily implies all the other modes of objectification. If, as she suggests, context is everything in matters of objectification (1999, 227), then applying her seven indicia of objectification to sex work in Sonagachi and Tirupati reveals that the presence and extent of these indicia is a function of the institutional setting of sex work, the mode of organization of sex work, and the scale of the sex business. More specifically, many of the modes of objectification are partial and qualified in the case of independent and contractor sex workers, although far less so for sex workers under bonded labor. Consider ownership, for example. Radical feminists assert that sex workers are owned from the very moment they are trafficked into sex work by brothel keepers and pimps, and by johns for temporary periods of time. Yet in both Sonagachi and Tirupati, this is true only for chhukri sex workers or sex workers in lodges in debt bondage, and even there they are not owned like chattel slavery.<sup>9</sup> Some customers may believe that they own sex workers for a limited period of time in contrast to sex workers’ understanding that they are leasing out their labor and sexuality with the ability to refuse sexual acts. This was, for them, an index of their ability to keep their izzat or self-respect.

Similarly, customers do typically instrumentalize sex workers to satisfy their sexual urges or mimic an emotional relationship that they are otherwise not able to have. However, Sonagachi’s fixed customers visit the same sex workers frequently to satisfy both sexual and emotional needs, problematizing the assumption that objectification implies fungibility. With respect to violability, physical, emotional, and mental violence is certainly a part of sex work but is not a necessary consequence of the objectification of sex workers, although the relationship between a sex worker and customer may or may not be a mutually respectful, egalitarian relationship. Finally, instances of sex worker autonomy, agency, and subjectivity are abundant throughout my ethnographies of sex work in Tirupati and Sonagachi. If anything, sex workers often engage in the reverse objectification of their customers. In the Bengali movie *A Tale of a Naughty Girl*,<sup>10</sup> for instance, a sex worker tells her friends that all men are the same and their fungibility can be reduced to “their few dangling inches.” Sex workers also routinely instrumentalize customers merely as a means to their livelihood.

Feminists who oppose the work position delineate other harms in sex work, including private violence and disease, psychological diminishment and abuse, economic exploitation and violations of sex workers’ dignity, bodily integrity, physical and mental health issues (Jeffreys 1997; Barry 1979; 1995; Millett 1971), and their human capabilities (Hernández-Truyol and Larson 2006, 444), such that it amounts to a harmful cultural practice (Jeffreys 2009, 11–12). If sex work was legalized, they claim, it would also undermine local democracy, increase

organized crime and police corruption, and harm all women and neighborhoods by increasing the demand for sex work (Jeffreys 2009, 182–83). Thus, both abolitionists and middle-ground feminists persistently respond to proposals for workers' rights for sex workers only in the language of harm and injury. Yet these harms (even with a capital H) are not unique to sex work. For example, sex workers are said to earn substantially more than hospital orderlies, although in terms of their work environment, perceived stress levels, and actual assault rates, sex work and hospital work are surprisingly similar (Edlund and Korn 2002, 189). What, then, are we also to do with several other hazardous forms of labor, including mining, truck driving, cleaning windows in high-rise buildings, firefighting, and garbage collection, just to pick a random set of employments?

Perhaps the objection, then, is to the considerably higher levels of harm involved in sex work. Larson and Hernández-Truyol use a Human Rights Watch report, *Workers' Rights in U.S. Meat and Poultry Plants*, as a model for evaluating exploitative labor, which could then be applied to sex work. They conclude on the basis of the report that working conditions in much of prostitution, like those in the meat-processing industry, impair workers' human capabilities (2006, 444). Human Rights Watch itself urged the U.S. government to strengthen and implement U.S. labor laws on health and safety, compensation, and the right to association. Larson and Hernández-Truyol, however, conclude that for sex work there may be "intrinsic qualities of sexual labor that violate human rights norms, notwithstanding governing national law or its legitimacy as an economic practice" (ibid.). This is why they claim that even historically prostitution came to be defined as outside the realm of the wage labor bargain (Hernández-Truyol and Larson 2001, 17). Yet my genealogy of materialist feminist theories of sex work in chapter 3 presents other possible explanations for historical oversights of female reproductive labor by Marxist thinkers. Yet what is pertinent for the current purpose is the authors' reasoning for treating sex work exceptionally, namely, *the intrinsic qualities of sexual labor*, which set it apart even from other types of low-paid, low-status work (Hernández-Truyol and Larson 2002, 200; italics mine). In other words, sex exceptionalism.

Yet feminists have reiterated that sex work is not a unique instance of commodification of one's body or services. Many parts of what we might think of as the inner person are routinely sold on the market along with sex (Day 2007, 47), and it is only when we treat sex as a qualitatively distinct activity that sex work becomes incomparable with other ways in which we use our bodies, brains, experience, and skills (ibid., 102). Commodification scholars already warn us that the "Hamlet question of whether 'to commodify or not to commodify' only serves to confuse us" (Williams and Zelizer 2005, 368). Claiming that the Hostile Worlds thesis fails as an empirical matter, they instead ask the question, which I believe also animates this book, of who controls the process and the proceeds of commodification (ibid., 373). Indeed, when migrant sex workers feel deceived, they usually complain of working conditions and not the fact that

the work is sexual (Agustín 2007a, 34). While I do not promote sex work as an instance of “commodity resistance” (Radin and Sunder 2005, 8, citing Appadurai), the similarities between sex workers and other female workers are striking. Hence Nussbaum’s comparison of sex workers with a range of women workers who sell their bodily services, including a female wage worker in a meat-processing plant, a domestic helper, a nightclub singer, a philosophy professor, a skilled masseuse, and a “colonoscopy artist.” She concludes that what really sets sex work apart is its stigmatized nature (Nussbaum 1999, 285), including from feminists whose denunciations of the sale of women’s sexual and reproductive capacities are based on prejudice rather than reason (*ibid.*, 281).

Another major factor affecting feminists’ response to the work position is their assumption that those who oppose the abolitionist line are sexual liberals, liberal men, or the “sex-industry supported prostitution lobby” (Barry 1995, 6). This critique is replicated in the Indian context, where sex workers’ groups like the DMSC are viewed as liberal (Ghosh 2008, 69) and in favor of legalization (Ghosh 2005, 62). This understanding is erroneous. In a recent letter to the Indian prime minister, Manmohan Singh, sex workers from the DMSC presented themselves as the direct victims of globalization, having been born in the homes of jobless and homeless peasants and workers, rather than “falling from the sky”; in Marxist terms they presented themselves as victims of primitive accumulation. While not making claims on the state to provide alternate employment, they were keen to ensure that the state did not deprive them of their existing livelihood under the influence of “some wrong, foreign ideology, especially under the pressure for becoming more pro-American.” They characterized the ITPA as antiworker, anti-sex worker, and, ultimately, antipeople. Similarly, the Binodini Srameek Union, the proposed trade union of the DMSC, has consistently referred to sex work as a marginal, sexist, exploitative, and low-status job that was a rational choice from the very limited set of options available to poor, unskilled women in a capitalist and patriarchal society (National Network of Sex Workers 2003). This is a rather conventional structuralist account of sex workers’ conditions, not a liberal one. In light of this, sex workers’ groups have also repeatedly clarified the distinction between decriminalization and legalization, and the disadvantages of the latter, rejecting conventional legalization (Jameela 2007, 110). While tempting to view their refusal of state power as a liberal or sex radical refusal, it is in fact a rejection of the pervasive state violence and rent-seeking practices that the enforcement of anti-sex work criminal laws have spawned. From a sex worker’s perspective, a labor inspector or a municipal official in place of a police inspector is hardly the face of state benevolence. Misunderstanding sex workers on this count is particularly ironic considering that sex workers being at the receiving end of state violence have a deep appreciation for its oppressive powers and are the least likely to invite more state intervention into their lives, even if for their benefit.

The critique of sex workers as being promarket is true only in the limited sense that they resist the criminalization of customers who are vital to their



livelihood while being against other exploitative stakeholders. In the letter to the prime minister mentioned earlier, sex workers berated him for ignoring his own training as an economist in appreciating the supply-and-demand dynamics of sex markets and the fact that demand could not be eradicated given the current sex ratio and levels of poverty, which prevented many from access to a monogamous, familial sexual life. However problematic this understanding of sex work, its pragmatism should not be dismissed simply as liberal talk. In a sense, sex workers are part of the same symbolic universe as others in society (O'Connell Davidson 1999, 115), hence privileging sex worker voice, whether to agree or disagree with them, as an authentic reflection of their interests is problematic. Moreover, sex workers' view of the market comes from their understanding of its alternative, namely, charity. As Jameela observes of a scheme in her housing colony to distribute free but poor-quality gruel, "What's poured is charity; there are iron-clad rules on how to accept charity" (2007, 95). In the context of sex work, then, attempts at rescue and rehabilitation define dignity by assuming that being poor always had to be better than doing sex work. Moreover, rehabilitation took place on the terms of the rescuer, namely, that sex workers give up sex work in exchange for far more poorly paid, low-skilled work typically performed by women.

Feminist objections to the work position largely tend to treat sex work as exceptional. Yet sex work has many of the features, as borne out by my ethnographies of sex work in Sonagachi and Tirupati, that Shrage associates with work in general, leading me to agree with her that "[we] not treat sex work as a special, and more egregious, case of capitalist exploitation—despite our own cultural sensibilities" (1994, 95). Yet there remains before us the difficult task of dealing with the harms, inequalities, discrimination, and abuse in sex markets without treating sex work as an exceptional economic activity.

### ■ Lost in Transition: Noncorporate Capital and Indian Sex Markets

For a postcolonial materialist feminist theory of sex work, recognizing sex work as legitimate work is a preliminary step. The structures that configure sex markets and the attendant patterns of exploitation and inequality still need elaboration. In this context, I address the nature of the macro-political economy under which Indian sex markets are presumed to operate. Both radical feminists and postindustrial feminists, as I have shown in chapters 2 and 3, respectively, demonstrate an acute awareness of the changing nature of sex work in the postindustrial West and its transformation into dispersed and proliferating sexual commerce. They both grapple with these emerging sex markets in quite different ways. They present radically different epistemologies of sex work (as violence or work) using varied methodologies, nonethnographic in the case of radical feminists and ethnographic in the case of postindustrial feminists like Bernstein, and harboring different political desires (abolitionist versus



economic justice for sex workers). Yet, when it comes to understanding sex markets in the non-West, for lack of a better word, they appear remarkably similar in offering what I loosely call “transition narratives” for their development. These narratives are typically invoked in the context of development economics, and in the case of sex work, do not positively prescribe transition to a modern or postindustrial sex market. Yet, at least in Barry’s narrative, the four stages of sexual exploitation, namely, trafficking, military prostitution, sex tourism, and the normalization of sex work constitute progression, so she assumes the teleological development of sex markets (1995, 51).

Bernstein, on the other hand, offers the three paradigms of sexual commerce, namely, early modern sexual barter, modern industrial prostitution, and postindustrial sexual commerce, but clarifies that her typology does not demarcate discrete and nonoverlapping historical epochs (2007a, 169) arranged in a teleological sense but is instead a heuristic device. In fact, all three paradigms could coexist in any given sex industry. Similarly, Barry acknowledges that there is some sex industrialization in the least developed countries like India, while some trafficking persists in heavily sex industrialized countries (1995, 185). What, however, renders the distinctions paradigmatic are the transformations in the broader spheres of the economy, culture, and sexuality (Bernstein 2007a, 172). Whatever the interplay between the three paradigms within a given sex industry, it is still possible to discern a premodern, modern, and postindustrial macro-political economy characterized by homologous developments in the form of work (domestic production, wage labor, and service work), kinship relations (kin networks, nuclear families, and recombinant families), and sexual ethics (procreative, companionate, and bounded authenticity) (*ibid.*, 173).

Familiar as transition narratives have come to be, a postcolonial materialist feminist theory of sex work must necessarily start by problematizing them. I do this both with a view toward interrogating the notion of transition and toward contesting the portrayal of capitalism as the hegemonic economic system engulfing the third world and bringing it under the power and control of multinational capital (Sanyal 2007, 5). South Asia, in particular, occupies a special place in the radical feminist teleological narrative of how sex markets develop. The sex market here is characterized as “trafficking,” which constantly and productively plays on the impression that all sex workers there are always trafficked. Further, Barry employs all possible signifiers of backwardness to describe this “stage” of South Asia’s sex market and the corresponding structures of kinship and the economy that facilitate it—rural prostitution, which is socially accepted; tribal women who are trafficked into sex work; marital feudalism, or the familial ownership of women and children (1995, 178); state feudalism; a feudal/preindustrial economy; and the informal economy. Jeffreys further elaborates on such marital feudalism in the non-West as encompassing the trafficking of women for marriage, arranged marriage, and child marriage. I start by calling into question this characterization of South Asian sex markets in radical feminist literature on sex work as “feudal” by pointing to the colonial transformation

of Kolkata's sex industry into something other than "feudal." Then I query the extent to which a teleological narrative of the development of sex markets resonates for Tirupati's sex market. Finally, I draw on the work of subaltern studies scholars to problematize the transition narratives of the macro-political economy on which both Barry and Bernstein base their theories of change in sex markets. These insights can be extrapolated for claims about the family form and the prevalent sexual ethic on sex work, thus destabilizing their implicit assumption of "first in the West, and then elsewhere" (Chakrabarty 2000, 6). In a sense, third world feminist theorizing on sex work has been fundamentally geared toward problematizing the hegemonic Western script about prostitution (Kempadoo 1998, 13) for at least a decade. This intervention has, however, been framed most visibly in terms of third world sex workers' agency (Kapur 2005b). Still, I argue that agency is too narrow and incomplete a lens through which to examine the hegemonic script. I suggest that tilting the axis of critique along postcolonial materialist lines reveals instead a more complex hegemonic script that is shared by both Western abolitionists and sex work advocates.

### ■ The Colonial Remaking of Kolkata's Sex Industry

In her description of South Asian sex markets, Barry displays amnesia of British colonialism in the subcontinent and its role in military prostitution, despite the fact that both Barry and Jeffreys extensively describe military prostitution in the Southeast Asian context. This is ironic, for Barry's admitted source of inspiration is the iconic abolitionist Josephine Butler, who lobbied for the repeal of the contagious diseases laws in India, which had effectively legalized prostitution. Postcolonial scholars suggest that such amnesia is an everyday symptom of the subalternity of non-Western, third world histories and third world social science (Chakrabarty 2000, 28–29). At the other end of what Chakrabarty calls the "inequality of ignorance," third world scholars "cannot even afford an equality or symmetry of ignorance at this level without taking the risk of appearing 'old-fashioned' or 'outdated'" (ibid.). What is paradoxical, then, is the view that third world feminists are somehow impressionable enough to simply follow Western academic trends. Note, for instance, Jeffreys' observation that the liberal individualist language of (Western) sex work advocates is *now* used (2009, 20) "to describe the most impressively unlikely situations in the non-west." To illustrate, she criticizes Kapur for taking up ideas of so-called liberal feminism from Katie Roiphe (ibid., 22)! While I do not assume for myself the problematic role of the native informant, Jeffreys' criticism suggests that third world feminists are *clueless* about the contexts they work in and look to the West for ideas. So once again, it is "first in the West, and then elsewhere."

South Asian sex markets in Barry's narrative are feudal, yet Indian scholars have extensively documented how colonial rule ushered in broader socioeconomic changes that had dramatic implications for local sex markets (Tambe

2005, Dell 1999, Parker 1998, Kannabiran 1995, Nair 1993, Raj 1993, Chatterjee 1992, Srinivasan 1985, Joardar 1984, Ballhatchet 1980, Andrew and Bushnell 1899). Whether disenfranchising women in matrilineal economies of customary prostitution, actively recruiting native women for British and native soldiers, or producing seismic shifts in the Indian economy that necessitated women's entry into sex work in urban red-light areas, colonial rule heralded in, in a very general sense, a transition to a "modern" phase for Indian sex markets. The law played a central role in this process. In his social history of prostitution in nineteenth-century Bengal, Sumanta Banerjee confirms that the restrictive and punitive attitude adopted by the colonial administration was in sharp contrast to the permissive and accommodating politics of precolonial rulers (2000, 23). According to Banerjee, the formation of brothels in Kolkata and the rest of West Bengal could be attributed to the colonial presence in very direct ways (*ibid.*, 32). As sleepy little fishing towns began to be converted into trading outposts of the East India Company, leading to the establishment of offices, collection points, transportation hubs, and residential settlements of both the British and their indigenous support system, concubines and brothels emerged to service the sexual needs of both British and native men who worked there. The female go-between of precolonial times who lured women to their lovers and later forced them to do sex work was replaced by the mid-nineteenth century by the male dalal (*ibid.*, 145). Similarly, Banerjee attributes the association of sex work with other criminal activities, such as maintaining opium dens and gambling houses, to the broader socioeconomic changes brought about by colonial rule. The only means of survival for the hundreds of thousands of rural migrants pouring into Kolkata, he argues, was through new, nontraditional means, such as running distilleries and gambling dens to cater to British soldiers and later to the natives (*ibid.*, 145). As a process of brothel formation was initiated in Kolkata, Kolkata's sex industry grew considerably from a mere 12,419 sex workers in 1853 out of a population of 400,000 to 30,000 by 1867, despite the same overall population of the city (*ibid.*, 74). By 1881, the number of sex workers had grown to 122,228 (Dell 1999, 34). British soldiers, however, did not form their exclusive customer base. Colonial rule also impacted on the lifestyles of Bengali men who formed a new generation of clientele for sex workers (Banerjee 2000, 35).

Thus, from the nineteenth century onward, two types of red-light areas emerged in Kolkata. The first type was situated in cantonment areas and housed brothels or *chaklas* that catered to different sections of British and Indian soldiers stationed there. The second type of red-light area catered to Indian men of all classes, including traders made wealthy through commercial transactions with the British, employees and professionals in the tertiary sector, factory workers, and migrants. Sonagachi was one such red-light area. Meanwhile, the spread of sexually transmitted diseases led the colonial government to regulate the sex industry through myriad modes of legalization in order to safeguard the health of its military forces. This was initially confined through the Cantonment

Act of 1864 to the cantonment areas where British soldiers were posted but was later expanded to the entire sex industry through the Contagious Diseases Act of 1868. Ultimately, legalization, backed up by an array of criminal penalties, was costing the Exchequer almost 500,000 rupees a year while doing little to reduce the incidence of STIs among British soldiers. The colonial government was soon forced to revert to regulating the sex industry within the cantonment and neighboring areas where British soldiers were the most likely to patronize sex workers. Sonagachi was outside this ring-fence zone of regulation because it was thought of as an indigenous red-light area, too far for soldiers to be drawn to (Banerjee 2000, 160) and patronized by wealthy middle-class and upper-middle-class Indian men.<sup>11</sup> In fact, some of the native critique of the overreach of the Contagious Diseases Act, 1868, it is suggested, had to do with the harassment of the mistresses of elite native men in Sonagachi.

Before long, in the next phase of colonial regulation of the sex industry, the nationalist elite, including elite feminists inspired by and affiliated to the international social purity movement (Dell 1999, 72, 9), campaigned for the passage of the Calcutta Suppression of Immoral Traffic Act, 1923, and the Bengal Suppression of Immoral Traffic Act, 1933. They took for granted the inevitability of sex work as an institution that could never be eradicated, although on the face of it, they opposed its organized nature and its exploitation of sex workers.<sup>12</sup> They rendered brothels within a certain distance from educational institutions and religious places illegal and excluded the application of the law to mistresses (Dell 1999, 86). Thus, colonial criminal law was fundamental to the process of the proletarianization of sex work. While the pace and mode of transformation of practices that we recognize today as “sex work” varied across the country, the general effect of colonial rule on sex markets, as Nair has succinctly put it, was as follows:

In the decades between the first move against devadasi in 1892 and the passage of the SITA Act in 1937, we may plot the series of transitions which resulted in the complete proletarianisation of sex-work: from dangerous non-wife to willful perpetrator of disease; from the active sexuality of the devadasi and cantonment sex-worker to voiceless victim who had to be rescued by the institution of marriage; from one whose life work was embedded in the religio-cultural sphere to one who was the embodiment of vice.

Radical feminists’ characterization of sex work in the Indian context as “feudal” is thus erroneous, even by their own definition of the term. What then explains contemporary abolitionists’ “will not to know”? One can only conclude that this “will not to know” is deeply matched by the will to intervene made possible only against the amnesia of the past and the complex histories of the countries over which such influence is sought to be exercised. Not surprisingly, Kapur has shown how such feminist interventions ironically reproduce political dynamics that are reminiscent of the colonial period. Western feminists in the violence against women movement, she claims, attempt to save third world

women from their barbaric men and society. Concomitantly, at the domestic level, cultural nationalism takes the place of its colonial counterpart—elite 1—and is in turn reaffirmed by feminists already rendered insecure by the charge of imperialism (Kapur 2005b, 115). Thus, the interests of domestic feminists have converged with those in the international violence against women campaign to reproduce problematic colonial-era constructs of the third world victim “as thoroughly disempowered, brutalised and victimized” (ibid.).

Ultimately, however, the attempt to recast the feudal characterization of Indian sex markets by radical feminists in terms of the “modern” only reinforces with vigor the idea of transition. Yet the changes wrought by colonial rule were far from hegemonic and complicate this very notion of transition. This was evident even during the colonial period, undoubtedly a moment of considerable socioeconomic upheaval and transformation. For instance, if the desire for an escape from the stigma of sex work toward a dignified life is characteristic of “modern” prostitution, then not all sex workers in Kolkata displayed this aspiration. Banerjee reports that sex workers from the higher castes mourned the loss of a domestic life that might have been theirs, whereas sex workers from cultivator and artisan castes and *dobol khankis*, or daughters of sex workers who took to sex work, were more sexually explicit and economically rational in their interactions with customers (2000, 106). They used the language of inversion to understand their situation while unabashedly resorting to the language of the market to describe their role as sex workers (ibid., 8). Further, according to Banerjee, sex workers were ambivalent about rehabilitation, as they had more freedom than the *bhadramahila* (domesticated housewife) as imagined by nationalist discourse by then (ibid., 141, 189). In fact, 83 percent of the sex workers who stayed at the All Bengal Women’s Union, a rescue home run by middle-class feminists, left the union after their court cases had been disposed of instead of staying on to complete vocational courses or seeking out options for rehabilitation offered by the union (Dell 1999, 227). Moreover, departing from the abolitionist feminist model, military prostitution in Kolkata did not lead to its industrialization or come under the sway of corporate capital, nor did it inform a national development strategy geared toward sex tourism.

In the contemporary period, sex work in Sonagachi demonstrates aspects of all three paradigms of sexual commerce set out by Bernstein. Significant aspects of Sonagachi’s sex market are structured by practices that have been traced back to the early modern, if not feudal, period. The practice of selami in tenancy arrangements is said to have its origins in feudal practices in Bengal and was prevalent in the “old” neighborhoods of North Kolkata, home to the mansions of the landed aristocrats. Similarly, the practice of *adhiya* possibly originated from sharecropping practices in rural agriculture, which sex workers, many of whom were daughters of peasants, seem to have imbibed in their daily practice of sex work.<sup>13</sup> This practice seems to have been prevalent in Kolkata red-light areas at least from the late 1800s (Dell 1999, 105), although the apportionment formula has varied between 25 and 50 percent of the price per

shot. Similarly, the influence of kin networks in Sonagachi is evident among Agrawali sex workers and dalals who belong to tightly knit communities governed by their own caste panchayats or adjudicatory bodies.

If one were to look more closely at the sex work transaction itself, sex work in the largest red-light area of a once-industrialized Indian city would appear to be paradigmatic of modern prostitution. Indeed, many of the characteristics of modern prostitution that Bernstein identifies are to be found in Sonagachi. DMSC activists argue, for instance, that sex work is a rationally chosen and comparatively well-paid form of labor on a par with other working-class jobs. Sex workers more generally draw sharp demarcations between what they will and will not do with customers and view heterosexual desire as natural and dually gendered and male desire as inevitable (Bernstein 2007a, 51). On the other hand, although modern prostitution is thought to be characterized by third-party managers, in Sonagachi this is not the case for the substantial number of sex workers who are self-employed. Bernstein also suggests that modern prostitution is criminalized by the state, while postindustrial sexual commerce is marked by the state's dual regulation of the sex industry, namely, indifference toward indoor sex work and extensive crackdowns on street-based sex work, the latter being supported by an alliance of feminists, politicians, and traders demanding a return to the modern sexual ethic of relational intimacy. As I have detailed in chapter 5, the enforcement of the anti-sex work law in Sonagachi is astonishingly similar to what Bernstein describes for San Francisco. In other words, we cannot necessarily associate modern prostitution with state criminalization, because as we have seen, sex work in Sonagachi is effectively decriminalized, and enforcement choices made by the police there are as significant as the law on the statute books that they are required to enforce.

Further, there are aspects of sex work transactions and sex worker mobility in Sonagachi that appear to fall under Bernstein's paradigm of postindustrial sexual commerce. For her, modern industrial prostitution is characterized by heterosexual intercourse or receptive oral sex, while postindustrial sexual commerce involves a variety of products and services, including performances and images. In Sonagachi, Agrawalis offer sexual services along with dance performances, many of them belonging to the Bedia community, which traditionally danced for a living (Agrawal 2008, 21). Unlike modern prostitutes (Bernstein 2007a, 50), some sex workers in Sonagachi will speak of their skills in sex work, including their ability to gauge the type of men their customers are and to fathom their needs. Similarly, Bernstein observes that sexual services in the postindustrial paradigm are measured not in terms of a fixed service but in terms of time, where sex workers who view themselves as professionals and healers practice an ethic of authenticity and genuine care, albeit bounded (*ibid.*, 89). On the other hand, modern prostitution involves quick sexual release. While the very measure for sex work in Sonagachi is sexual release, hence the phrase "per shot," Sinha and Sleightholme note that this is restricted to men who visit Kolkata's red-light areas for the first time out of curiosity or for a

night out with their friends (1996, 113). The needs of most customers are more complex, and visits are more often planned beforehand or are part of a routine (*ibid.*). This is especially true for customers with whom sex workers in Sonagachi form complicated affective relationships, referring to them as fixed customers or *babus*. In particular, the *denewala babu*, or the customer who gives, will typically have his own family but periodically visit the sex worker, usually once a week, because he likes her. The sex worker in turn views him as her lover, as well as someone who secures her financially by visiting her regularly. Yet he is ultimately a customer, and there is usually no expectation that they will marry or otherwise formalize their relationship outside the bounds of the sex worker–customer relation. While I am hesitant to use the term “bounded authenticity” to characterize this, the fixed customer here certainly does not purchase a chance for quick sexual release. His relationship with a sex worker is far more complicated and is mediated by emotions, financial considerations, and sometimes even children, without any normalization in terms of marriage, a natural exit route out of modern prostitution.

Similarly, there exist relations of concubinage between sex workers and affluent customers. Manju, the Agrawali I interviewed in Sonagachi, had had a “man” for nine years who paid her expenses; he was a respectable married man, she claimed. While sex workers usually talked lovingly about their “men” during our interviews, Manju viewed sleeping with him as work. If postindustrial sexual commerce involved authentic interpersonal connection, deep acting, and the emotional labor of sex (Bernstein 2007a, 103, 104), concubinage in Sonagachi shared some of these characteristics. Finally, although spatially bounded red-light areas are considered emblematic of modern prostitution, sex workers in Sonagachi were highly mobile. All categories of sex workers there were increasingly and routinely traveling on contract to other parts of the city, the state, and across the country. A 2001 SHIP survey indicated that 31 percent of A category sex workers, 20 percent of B category sex workers and 15 percent of C category sex workers in the survey sample had traveled outside their red-light area for sex work (STD/HIV Intervention Programme 2001, 15). Also, A category sex workers tended to travel outside the state while B and C category sex workers traveled within the city and state (All India Institute of Hygiene and Public Health 1998, 23). Thus, I have sought to complicate the notion of transition by demonstrating the complex intermingling of all three paradigms of sexual commerce in Sonagachi but also by querying whether the characteristics we associate with any of these paradigms are, in fact, unique to them.

### ■ A Tale of Provincial Capital: Temple Tourism and Tirupati’s Sex Market

Having assessed the valence of transition narratives in the metropolitan urban context of Sonagachi, I now ask how it fares in relation to sex work in provinces like Tirupati in what is an ostensibly modern, postindependent



moment.<sup>14</sup> Tirupati is located in South India, which has a decidedly different geography of sex markets when compared to North India in lacking red-light areas.<sup>15</sup> Although largely anecdotal, there is speculation for why red-light areas and brothels exist in North India but not the South. Explanations include patriarchy's late arrival to South India and women's relative independence there, as well as the predominance of a Brahmanical culture in the South, which organized sex work to minimize visibility. Meanwhile, brothel-based sex work in the North is attributed to the extensive practice of concubinage in North India, the location of major trade centers that attracted traveling businessmen, and the greater British military presence in the North, where red-light areas typically emerged near cantonment areas. This does not, however, explain why red-light areas continue to exist near northern cantonment areas but not near those of the South. It could also be that South Indian cities became urbanized rather than industrialized, unlike North Indian cities where a significant male labor force ensured the demand for sexual services. With the near absence of red-light areas in the South, alternate sites for sex work, such as temple towns in particular, have emerged. This is evident in the several references to temple towns in Jameela's autobiography (2007, 30, 122). Given the considerable size of the temple tourism sector in India and its South Indian sex markets, one might interrogate the relationship between infrastructure, temple tourism, and sex work. After all, as radical feminists tell us, the impact of tourism on sex markets is a key attribute of modern prostitution, especially in Southeast Asia. I use Tirupati as an example to ask if the domino effects of tourism on sex markets and the fear of its consequent industrialization are not overstated, and what role, if any, provincial, noncorporate capital plays in this respect.

The conventional thesis in the context of nineteenth-century Europe is that the sex industry is an undesirable product of urbanization, especially when fueled by industrialization and the mass migration of men to cities where, lonely and enabled by the anonymity of city life, they visit sex workers (Rule 1987, 65). Not only is the sex industry larger in cities, but it exhibits the most complex organization of sex work, namely, brothel-based sex work. This direct correlation between the degree of urbanization and the size and complexity of the sex industry could be called the "urbanization hypothesis." Tirupati's economy postindependence, especially since 1961, witnessed unprecedented urban growth due to the establishment by the TTD and the state government of universities and centers of higher education, specialized medical facilities, small- and medium-scale industries, and transportation infrastructure connecting Tirupati to the rest of the country. As the number of pilgrim visitors to Tirumala shot up, TTD went from facing a net deficit in 1951–52 to an outstanding 311 crore rupees in investments alone by 1996–97 (Anirvinnal 1998, 231).<sup>16</sup> The TTD's financial muscle, directed by the state government, led to an expansion and diversification of TTD's activities to meet the needs of pilgrims and residents in the region, an exponential growth in both the formal and informal economy, and an increase in the number of TTD's employees from 100



in 1953 to 16,000 in 2004 (*ibid.*, 246). Migration, spurred by regional drought-prone conditions, also contributed to the spurt in its growth. Thus, population growth has doubled every ten years since 1961 to the current figure of 308,627 for Tirupati (urban) and 73,166 for Tirupati (rural). In effect, postindependence Tirupati has continuously moved up the hierarchy of governmental indicators for urban status (Choodamani 1998, 34–35), and temple tourism has played a major role in this.

The urbanization hypothesis may work for some large Indian cities but is not borne out in Tirupati. On the contrary, increased urbanization has led to the demise of “brothel-based” sex work and the proliferation of other institutional settings for sex work. To elaborate, Tirupati’s longtime residents speak of a line of brothels on Netaji Road opposite the train station as recently as thirty years ago, where touts propositioned young men, suggesting a functional division of labor typical of brothel-based sex work. Far from constituting a geographically bounded red-light area, these brothels existed harmoniously alongside local family homes. Touts, for instance, refrained from propositioning local neighborhood boys. Police raids were preceded by adequate warning to brothel keepers so that sex workers escaped arrest by hopping over to neighbors’ rooftops, but if arrested they had to walk in full public view to the police station. Raids escalated in the late 1970s and early 1980s, and between 1984 and 1986, a local police inspector demolished forty brothels and cracked down on the area’s street hawkers. Urban sociologists suggest that it is around this time that as the central town areas became congested and overcrowded, the local elite started moving farther outward, selling these properties to commercial establishments (*ibid.*, 41). Today Netaji Road is dotted with shops and shops-cum-residences selling auto parts and other local merchandise. Thus, with urbanization, Tirupati’s brothels were eliminated but were not displaced to the town’s periphery. If brothel-based sex work is the high point of the modernization of sex work, this did not quite happen in Tirupati. If anything, many sex workers remained independent. As for the effect of tourism on sex work, although approximately seventy-five thousand pilgrims visit Tirupati daily, sex workers claim that customers were mostly local residents with one local hotel owner, estimating that TTD employees constituted 40 percent of the customer base. Some tourists did engage sex workers and paid more than the locals, but were far from forming the bulk of their customers. After all, most tourists visited the city for religious purposes, although some men used it as a pretext for recreational sex.

If pilgrims were not a pull factor, could the hotel industry have indirectly fueled the sex industry by renting out rooms for sex work, especially if it had excess capacity? Until the late 1950s, the TTD provided free dormitory-style housing, but this was ill-equipped to meet the rapid influx of pilgrims starting in the 1960s. This gave rise to the private hotel industry, producing a shift in the living space for tourists from public dormitory-style accommodation to private rooms that ensured a level of privacy necessary for sex work. As of

1998, the TTD catered to only 10 percent of the pilgrim population in Tirupati itself (Anirvinnal 1998, 61) and had only four thousand units of accommodation for pilgrims on Tirumala (ibid., 64). Tirupati has 140 hotels and lodges with roughly fifty rooms each, providing approximately five thousand to six thousand units of accommodation. Of these, ten to twelve are three-star hotels, with only one hotel that is run by a major Indian corporate hotel chain. The rest have cropped up only in the past fifteen years and are operated by middle-class and lower-middle-class owners. Thus, Tirupati's large pilgrim population is serviced by a small hotel industry, operated by both the state and the private sector, the latter consisting largely of owner operators of hotels and lodges. Tirupati's hotel industry, at best, meets the needs of one-third of the city's daily pilgrim population, implying high occupancy rates and, consequently, low motivation to rent out premises for illegal activities like sex work. Surprisingly, however, at least one hotel owner claimed that Tirupati's hotel industry of late had excess capacity. This is possible because over the years, with substantial improvements in Tirupati's travel infrastructure and the electronic processing of *darshan* lines,<sup>17</sup> pilgrims are better able to plan their time in Tirupati and can avoid overnight stay altogether. Furthermore, poorer pilgrims sleep at the bus and railway stations and access informal accommodation in Tirupati's slum and lower-middle-class neighborhoods. Still, where there is excess room capacity, the decision of hotel and lodge owners whether to rent rooms to sex workers or not was not inevitable, depending instead on their financial need, occupancy rate, and, most important, their appetite for legal risk from possible police raids.

As I have shown, it is not clear that Tirupati's hotel industry directly or indirectly promotes sex work. Tirupati's hotel and tourist sectors are shaped by noncorporate capital rather than corporate chains. In this, the city's hotel ownership profile resembles that of the state of AP more generally (National Commission for Women 2002, 14), with a preponderance of domestic tourists who use budget-style hotels (ibid., 19). Here a big role is played by small, local players rather than big players who concentrate on foreign tourists and high-paying domestic tourists (ibid., 20). The emergence of sex work packages and large stratified sex businesses replete with owners, a managerial class, a sex worker labor force, and factorylike conditions of work is therefore highly unlikely, especially where domestic tourists outnumber foreign tourists almost forty-two to one (ibid., 18). In conclusion, far from fostering sex tourism, Tirupati's temple tourism, characterized by the provincial capital of the state and owner operators, provides, at best, an inexpensive, reliable, safe, and extensive travel infrastructure, which has facilitated sex workers' physical mobility to do sex work.

Neither is the apparently postindustrial character of traveling sex work a consequence of the gentrification of Tirupati's city center and the consequent geographic dispersal of sex work. In a sense, loosely organized and flexible forms of sex work were not new to Tirupati. Older sex workers speak of a group of destitute sex workers working under parked tourist buses in the 1970s when

there were only chicken farms in the area. Some of them also traveled on contract to nearby towns, in turn recruiting women there for sex work and charging them commission. There were also “flying sex workers” who worked at night and returned to their homes in the morning (Women’s Initiatives 2000, 5–6). Hence, the phenomenon of traveling sex workers or the rendering of sexual services on contract is not recent. The correlation, then, between major shifts in Tirupati’s political economy (whether the rapid expansion of tourism or its urbanization) and its sex market is far from obvious. So, also, the vocabulary of the three paradigms of sexual commerce seems to run out when making sense of sex work in Tirupati.

### ■ The Lumpen Proletariat and the History 2s of Capital

None of what I have said so far in the context of Sonagachi and Tirupati’s sex markets necessarily destabilizes existing feminist transition narratives of sex work. Indeed, in Sonagachi, the transition narrative appears to work despite Kolkata’s patchwork of colonial, postindependent, and, more recently, deindustrialized capital (Gooptu 2007) to produce the complex coexistence of sex work under the different paradigms of sex work. After all, Barry and Bernstein both acknowledge the coexistence of the three paradigms of sexual commerce. The narrative of transition and its paradigms of sex work are, however, less relevant in comprehending Tirupati’s sex market. For Barry however, it is the *national* developmental context that characterizes the stage sex markets are at. For Bernstein, such distinctions are less clear-cut, so that the economic, familial, and cultural shifts underlying postindustrial sexual commerce are gradual and uneven, as “millions of women and men across the globe . . . live in nonindustrialized areas and rely on their own agricultural production, extended kin networks and plentiful offspring for social and material sustenance” (2007a, 174). Entry into the postindustrial space here is framed as a privilege of a few “individuals from specific classes, racial-ethnic backgrounds, regions and nations” (ibid.). While the text claims equanimity between the first world and third world, the subtext hints at the third world waiting at the cusp of changes already known to the West. While to Bernstein’s credit, she is resolutely contextual and does not claim to speak about parts of the world that she does not consider, her paradigms of sexual commerce and their relation to larger changes in the economy, the family, and the sexual ethic happen to articulate perfectly what the radical feminists have been trying to get at in their recent turn to theorizing the political economy of sex work. Bernstein’s thesis as to the newness of postindustrial sexual commerce, in other words, necessarily rests on the distinction of postindustrial socioeconomic conditions from what went before and from places “out there” in the world, where early-modern and modern economies exist. South Asia assumes its backward position in a different way here.

In other words, the metatransition narrative of Development and the categorization of national economies into feudal, modern, and postindustrial, and their underlying assumptions of historical difference, remain intact, rendering Indian sex markets feudal or modern. The postcolonial response to this dilemma of historical difference is extensive, starting with Said's characterization of Marx's remarks on India and the double mission of colonial rule there as orientalist (Said 1978, 153–57). Valiant defenses notwithstanding (Ahmad 1992, 221–42), postcolonial scholars have produced “dossiers,” in Spivak's words, on Marxist categories integral to transition narratives, such as the Asiatic mode of production (1999, 83–111), revealing not only their conceptual incoherence, but also the fault lines they expose within the historical accounts of Europe's own modes of production (*ibid.*, 95–96). Dipesh Chakrabarty similarly problematizes the notion of historical difference so integral to transition narratives by locating dangerous supplements within the very body of Marx's work. In his “The Two Histories of Capital,” Chakrabarty refers to three ways of viewing differences in the histories of global capitalism: either these differences are seen as being invariably overcome by capital in the future, an equivalent of Harvey's diffusionist argument (2006, 72), or as negotiated and contained within the structure of capital as evidenced by the dependency feminists I have discussed, and, finally, where capital itself produces and proliferates differences.

Chakrabarty, viewing all three perspectives as historicist, problematizes their historicism through an examination of Marx's distinction between two kinds of histories, which he calls History 1 and History 2. History 1 is “a past posited by capital itself as its precondition,” and History 2 is where some elements “are ‘antecedents’ of capital, in that capital ‘encounters’ them as antecedents, but . . . not as antecedents established by itself, not as forms of its own life-processes” (2000, 63). While History 1 lends itself to the reproduction of capitalist relations, Chakrabarty argues that through History 2 Marx acknowledged that “the total universe of pasts that capital encounters is larger than the sum of those elements in which are worked out the logical presuppositions of capital” (*ibid.*, 64). Examples of such elements that Marx himself gives are money and commodity, enabling Chakrabarty to draw the conclusion that “relations that do not contribute to the reproduction of the logic of capital can be intimately intertwined with the relations that do” (*ibid.*). In other words, “History 2s are (thus) not pasts separate from capital; they inhere in capital and yet interrupt and punctuate the run of capital's own logic” (*ibid.*).

Chakrabarty's provincialization of Marx's capital destabilizes Marxist transition narratives. If, after all, as Chakrabarty claims, difference is not external to capital or subsumed within it but in intimate and plural relationships to capital ranging from opposition to neutrality (2000, 66) then how could we possibly claim to be under the global sway of capital? This analysis of the histories of capital problematizes any easy categorization of the macro-political economy as feudal/early-modern, modern, or postindustrial, under whose signs sex markets operate. It is precisely these History 2s of capital that I have sought

to delineate in my discussion of Sonagachi and Tirupati. In the process, I have shown that their sex markets are saturated by relations that do not contribute to the reproduction of the logic of capital but are intimately intertwined with the relations that do and how equating the market with capitalism does mean keeping the specificity of capitalism out of sight (Sanyal 2007, 3). However, in doing so, my aim is not to essentialize the informal economy or heterogeneous capital as a third world phenomenon, because this only reproduces transition narratives all over again. At the same time, the notion that heterogeneous capital is merely integral to the logic of capital is a familiar one in scholarship of a Marxist persuasion. I consider this overwhelmingly structuralist analysis in the recent work of postcolonial scholars like Sanyal and Chatterjee to suggest that it once again fails to subsume the politics of the lumpen proletariat like sex workers.

Building on dependency theory but also incorporating Foucauldian insights on governmentality, postcolonial scholars like Sanyal argue that while under dependency theory, a logic of inclusion and extraction backed by coercion enables primitive accumulation and incorporates noncapital into precapital/capital (2007, 73),<sup>18</sup> in the postcolonial context of representative democracy, hegemony is ensured by the discourse of development and welfarist governmentality (Sanyal 2007, 60). Partha Chatterjee, drawing on Sanyal, further argues that the relationship between the formal and informal sectors, characterized by “corporate” and “noncorporate” capital, respectively, is mediated in the governmentalized space of political society instead of civil society,<sup>19</sup> which is the domain of corporate capital (Chatterjee 2008, 58). For Sanyal and Chatterjee, there is a flow of capital from the capitalist space to the developmental state to take care of the castaways of capital’s agenda in precapitalist sectors. This produces two economies, the need economy and the accumulation economy, locked in a relationship of subordination. The need and accumulation economies reside in the realms of money and exchange, but have different internal logics, labor processes, and motives. Fundamental to the distinction between them is the fact that people in the need economy are not given an option to perform for capital (Sanyal 2007, 63). Production activities in the need economy are predominantly noncapitalist, involving self-employment, household production with family labor, or different forms of collective/communal organizations of production (*ibid.*, 65). Economic activities are primarily undertaken for meeting needs (*ibid.*, 209) although accumulation is a possibility but incidental to the primary purpose.

Although Sanyal characterizes the household as belonging to the accumulation economy because its reproductive functions are directly appropriated through circuits of capital, for reasons I do not detail here, let us consider here that the sex industry as a subsector of female reproductive labor belongs to the need economy. After all, Indian sex markets exemplify the logic of the need economy where money is earned for maintaining a livelihood rather than impersonal capital accumulation. This is the case even where brothel keepers extract surpluses from *chhukris* and *adhiyas*. Moreover, sex workers socially

reproduce a highly diverse set of men, not all of whom are wage laborers working for capital. In all institutional settings in which sex work is conducted, self-employed sex workers, in particular, not only reproduce the customer, but also their male lovers, if any.<sup>20</sup> With sex work in the household setting, the housewife is reproducing not only her husband and children but also the customer. In the brothel setting, the circuits of reproductive labor are even more complex. Assuming a brothel has a brothel keeper and a few sex workers, the sex workers are reproducing the male customer and their own lovers, if any, while being themselves socially reproduced by the brothel keeper, who in turn is reproducing her own family. Thus, tracking the flows of reproductive labor to the capitalist accumulation economy is even more tenuous.

If sex markets are thus a part of the need economy, in Sanyal's thesis, as victims of primitive accumulation they are the beneficiaries of welfare governmentality. This bears resonance as sex workers have figured prominently, with the emergence of the HIV pandemic, as a population group worthy of state attention. While state surveillance of sex workers through what Ghosh calls the "care-watch system" has been documented (2005, 59), the benefits from favorable governmental categorization have been incidental, almost fortuitous as far as sex workers are concerned. Sex workers, as we have seen in Tirupati, access benefits under acceptable categories in government schemes (such as "below the poverty line," "widow," "scheduled caste") rather than as "sex workers" entitled to specific benefits. In Kolkata, on the other hand, the DMSC has made collective claims to benefits based on sex worker status. Where the illegality of sex work posed obstacles to registering membership associations, the DMSC repeatedly countered them by appealing to the sensibilities of the leftist ruling party in their capacity as "workers." That the state is responsive to claims based on the status of population groups was evident in the 1998 Plan of Action (Government of India 1998) where the then federal government promised sex workers special benefits in housing, health, and education, as members of "economically weaker sections" of society, although it was hostile to appeals for decriminalization, much less workers' rights for sex workers. Again, these promises were hardly unconditional, for the Plan of Action clearly distinguished between victims of commercial sexual exploitation who were willing to be rehabilitated and those who were not. Yet state efforts to achieve even the conventional and less controversial program of rehabilitation have been a charade. Thus, the reach of the developmental state, which otherwise appears extensive, continues to elude lumpen proletarian groups like sex workers and beggars (Ramanathan 2008). If anything, more visible for sex workers is the Janus-faced nature of the Indian state and its capacity for unmitigated violence. Moreover, the state continues to directly appropriate sex workers' reproductive labor through its rent-seeking practices while deriving the ideological benefits of terrorizing women who are not sex workers. Thus, while governmentality has come to mediate the relation between sex workers and the Indian state to some extent, the benefits of the developmental state are hardly palpable for them.

The supposed subordination of the need economy to the logic of capital also runs the risk of underestimating the resistance of groups like sex workers. Chatterjee warns as much against depoliticization, alerting us to the fact that political society goes beyond simply embodying a “mechanical transaction of benefits and services” (2008, 61). Indeed, sex workers’ persistent demands of the state for workers’ rights constantly disrupt their own carefully cultivated relations with the state in political society. In light of the state’s poor developmental reach, its continued violence, and extractive arrangements vis-à-vis sex workers, and the conceptual inadequacy of welfarist governmentality in explaining sex workers’ politicization, one might wonder if workers in the need economy in their vast noncapitalist spaces of production do indeed contribute to the logic of capital (Nigam 2008). In conclusion, I do not mean here to romanticize sex markets as somehow being at the vanguard of an alternative to capitalism.<sup>21</sup> Yet the lumpen proletariat, like sex workers, perpetually confound our attempts to theorize the hegemony of capital through the criminality and invisibility of their abject labor, performed in the space of the History 2s of capital and their contingent fielding of state violence in the rather rough-hewn realm of political society.

#### ■ Recognition, Redistribution, Regulation, and the Work Position: Toward a Conclusion

How are we then to make sense of the political project of a lumpen proletarian group like sex workers when they demand workers’ rights of the state? After all, materialist feminists have rendered visible female reproductive labor, including sexual labor, and while feminists continue to remain conflicted about whether to go further to recognize sex work as a legitimate form of work, sex workers have repeatedly forefronted the work position. Are sex workers making merely liberal claims of the state, as some feminists suggest (Ghosh 2008), or claims for recognition (Jeffreys 2009, 17–18, quoting Miriam) rather than those of redistribution? Indian sex workers’ groups present a complex mix of demands for both recognition and redistribution. Rejecting conventional legalization and licensing models, the DMSC has sought to register a trade union of its members called the Binodini Srameek Union (roughly translated as the Entertainer’s Labor Union) (National Network of Sex Workers 2003, 5). In its view, trade union rights will enable sex workers to resist madams, the police, and local goons, and enable access to governmental schemes (Durbar Mahila Samanwaya Committee 1998, 71), and employment and social security benefits such as health care, pension, and insurance. The DMSC has for years lobbied the local labor commissioner to place sex work along with other occupations in the state’s employment schedule. Such demands find resonance in the demands of more recent sex workers’ groups like the Karnataka Sex Workers’ Union (Kotiswaran 2011). Moreover, the DMSC is deeply influenced by the mobilizational repertoire of



West Bengal's trade union movement, even as it sets out to form alliances with other groups performing abject labor, including manual scavengers and domestic workers in the unorganized sector, which constitute 92 percent of the Indian working population. In this sense, the demands of the DMSC fall within the rather traditional rubric of redistributive claims.

At the same time, however, as testimony to the highly stigmatized nature of sex work, the demand for workers' rights is animated by the desire to get society to view them as women "who work for their livelihood" rather than as "fallen women" (Durbar Mahila Samanwaya Committee 1998, 71). Therefore, sex workers protested against the 2001 census, which categorized them as "beggars/vagrants/street children" or, at best, "singers and dancers" (ibid. 2002, 15). The recognition of sex work as a legitimate form of work (ibid. 1998, 71) and of workers' rights are thought to be essential for destigmatizing sex work. In this context, slogans of the sex workers' movement often suggest that they desire the social rather than legal recognition of prostitution as sex work. Moreover, rights talk could well be a mobilizational tool that confers a sense of identity and legitimacy on the sex workers' movement. Note here, however, that both demands for recognition and redistribution are transformative rather than affirmative (Fraser 1997, 27). Demands for redistribution are hardly confined to rehabilitation, instead extending to the protections offered by the state to the unorganized sector in general. Similarly, despite a sex-positive, sex-radical, and therefore affirmative strand in Indian sex worker politics, their demand for recognition is not framed in terms of an authentic sex worker identity but is deconstructionist in that it challenges the institution of marriage and asks if sex workers are, after all, that different from wives. Thus, as is true for most social movements,<sup>22</sup> Indian sex workers' demands for recognition and redistribution are complementary and intertwined in practice. Thus, sex workers' demands seek both recognition and socioeconomic redistribution. Moreover, unlike other instances that Fraser outlines, where demands for redistribution and recognition undermine each other in that redistribution typically promotes dedifferentiation and recognition promotes differentiation, in the case of sex work, both claims are geared toward reducing social stigma. In fact, the socioeconomic claims for redistribution as framed by the DMSC are more likely to achieve the destigmatization of sex work than claims for recognition based solely on sex worker pride.

Yet neither of the two sets of sex workers' claims has gained much ground with the Indian state, which is not surprising given the abolitionist trend worldwide and the Indian government's own proposed amendments to the ITPA criminalizing customers. At best, the 1998 Plan of Action proposed by the federal government offered benefits in housing and education to sex workers as socially and economically backward sections of society, which could be viewed as an attempt at affirmative redistribution (Government of India 1998). Compare this with recent liberally minded judgments delivered by Indian courts in the context of other sexually abject groups such as bar dancers and homosexuals,



and the uphill political battle that sex workers face becomes evident. For example, the Mumbai High Court in 2006 upheld bar dancers' right to livelihood; the decision, however, pivots on the basic distinction that the court made between dancing and sex work. Dancing was held up as a legitimate economic activity, as opposed to sex work, which was *res extra commercium*. Thus, the prospects for de-exceptionalist law reform for sex workers in the future appear dim.

In this context, the Indian sex workers' movement should not be viewed as monolithic. Groups differ in terms of their varied organizational and mobilizational capabilities and cultures, the regional political climate they work in, and the legislative proposals that they support, all of which are largely influenced by the sex markets that they work in. If these groups were to be plotted along the spectrum of demands for recognition and redistribution in their affirmative and transformative aspects, the DMSC would be at the transformative end of both sets of demands, whereas other groups would be invested in affirmative redistribution. Yet others may be as radical as the DMSC, but their political contexts do not permit them to make these claims openly. All these groups are, however, on the same side of the ideological divide concerning the normative status of sex work and are critically disposed to the role of the state, resisting its reach over sex workers' lives while sometimes strategically accessing benefits from it for sex workers.

The recognition-redistribution profile of a specific population group like sex workers assumes even more specificity when brought into conversation with the question of regulation. Since redistribution enhances sex workers' demands for recognition, I will focus here on the relationship between regulation and redistribution. This, I suggest, requires both a consideration of the redistributive prospects between sex work and allied markets for female reproductive labor, such as marriage and formal employment, as well as within sex markets themselves. For ease of reference, I characterize these as a theory of external and internal redistribution, respectively. With respect to external redistribution, the relationship between marriage and sex work has received much elaboration in materialist feminist and some radical feminist scholarship, which I describe elsewhere (Kotiswaran 2007). Sex workers similarly also have varying views on the subject (Kotiswaran 2011). However, the feminist treatment of the subject is largely theoretical. I suggest it might be useful for feminists to enhance these theoretical insights through what Agarwal calls "analytical description" (1997, 2) of which formal economic modeling and empirical analysis are subsets. So, for instance, a highly partial empirical marital profile for Sonagachi and Tirupati might look something like this. Just as 74 percent of the trafficked survivor respondents in a study commissioned by the National Human Rights Commission in 2004 had been married below the age of eighteen (Sen and Nair 2004, 72), in Sonagachi, in a 1998 SHIP survey, 73 percent of sex workers, irrespective of their category, had been married before entering sex work (All India Institute of Hygiene and Public Health 1998). As far back as the 1970s, in a survey of 200

sex workers in Kolkata, 168 had been married before coming to the occupation (Joardar 1984, 97).

Similarly, in Tirupati, several of the sex workers I interviewed had been previously married. In a study of 6,648 sex workers in Andhra Pradesh, researchers found that the proportion of those currently married was much lower (40.6 percent) and that of those separated/divorced much higher (30.7 percent) among sex workers as compared to the general female population of Andhra Pradesh, for whom these proportions were 71.4 percent and 1.4 percent, respectively (Dandona et al. 2005b). As for customers, national studies reveal a majority of them to be married. In one survey, 64 percent of the respondents were married and a majority of them lived with their spouses (National AIDS Control Organisation 2006a, xv). Similarly, 45.5 percent of the male customer respondents in the NHRC study were married and 72.9 percent were living with their spouses (Sen and Nair 2004, 279). Thus, it appears that most sex workers were once part of the marital economy and now provided sexual services to a largely married male clientele. This has implications for how we model the distributional consequences of any rule change relating to sex work.

In terms of regulation then, a feminist legal realist analysis deploying analytical description would not simply examine the impact of anti-sex work laws on stakeholders in the sex industry but also the varied distributional consequences of such laws on a plurality of social actors, including sex workers, wives who are also sex workers, husbands who are customers, wives of customers, and finally wives and husbands who are formally removed from the sex industry because neither buys nor sells sexual services yet, who benefit from the legal privileging of marital, procreative, and affective sex (Kennedy 1993, 155–56). Rule changes in marriage laws could have similar effects on these stakeholders. Modeling the impact of these rules is further enhanced by its reliance on the empirical marital profile of a given sex market as outlined above.

With respect to internal redistribution, in chapter 4 I have drawn on socio-legal scholarship to demonstrate the variables that impact the gap between formal state law and the law in action. In chapter 5, I mapped the legally pluralistic setting in which sex work is conducted in a concrete sex market, pointing to the layers of normative orders, including formal legal rules, social norms, and market structures that affect the bargaining potentials of various stakeholders in sex markets and the outcomes of their negotiations. In assessing prospects for internal redistribution against this backdrop, a theory of exploitation appears a logical starting point, not in the least because exploitation is the conceptual hallmark of international legal instruments on sex work and trafficking, which in turn shape national legal regimes and their legal discourse. In fact, the earliest mention of exploitation in the body of international law was in the 1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (Marks 2008, 294). The 2000 UN Protocol became the first international legal treaty to define the term (*ibid.*, 295). Interestingly,

Marks claims that since 1949, sex has been a key aspect of international legal activity addressed to exploitation (ibid., 294). Yet, the UN Protocol itself offers an unsatisfactory and self-referential definition of the term.<sup>23</sup> Although the UN Protocol is concerned with the mode of recruitment into sex work through trafficking rather than sex work per se, its definition of exploitation ambiguously suggests that prostitution in and of itself may be exploitative. Moreover, despite extensive feminist inputs into UN Protocol negotiations, the definition of the term exploitation, Munro claims, did not reflect the sophistication of either feminist or nonfeminist theorizing on exploitation (2008, 87). Instead, the UN Protocol betrays traces of the earlier legal imagination on trafficking in the context of the moral panics of white slavery (Marks 2008, 299).

In a useful overview of the extant scholarship on exploitation, Munro suggests two important components of the concept of exploitation, the first being *wrongful use* involving instrumentalization for achieving one's ends and the second being the *disparity of value*, where the beneficiary gains disproportionately at the cost of the exploited person (2008, 84, citing Wilkinson). Scholars disagree on whether a relationship must necessarily involve force, coercion, or harm to constitute an exploitative relationship (ibid., 85). The Marxist theory of exploitation based on the surplus value of labor similarly tracks the wrongful use and disparity of value arguments that Munro highlights, except that the conditions of coercion that enable exploitation are considered structural and endemic with little choice for individuals to begin with (Marks 2008, 290). At least three of the critical concepts of a theory of exploitation—instrumentalization, coercion, and harm—figure prominently in the feminist sex work debates. The radical feminist theory of sexual exploitation itself implicates all three in its account of women's sexual subordination and the constitutive harm of commodification. Thus, it goes to the heart of the wrongful use aspect of the theory of exploitation. Materialist feminists, on the other hand, are equally interested in both aspects of exploitation. In its anticommodification mode, materialist feminism is against the wrongful use of women's bodies for sex work. Materialist feminists more geared toward the political economy dimensions of the sex industry, however, account for how women's sexual labor is unfailingly appropriated for the capitalist mode of production (Fortunati 1995), multinational capital, and states in the developing world (Mies 1988, Truong 1990), and postindustrial capital, as well as more dispersed categories of beneficiaries, itself a feature of late capitalism (Singer 1993, Bernstein 2007a). Despite this extensive treatment of the disparity of value aspect of the theory of exploitation, however, materialist feminists focus far less on the specific forms of such disparity at the transactional level within a given sex market or sex industry considering their empirical heterogeneity. As a result, we are unable to contextualize and measure exploitation within sex markets, which in turn produces generic regulatory proposals untailored to specific economic scenarios.

Feminists who do delineate the disparity of value across a range of sex work transactions do so primarily in terms of the class processes that mediate sex

work, which typically include those of enslavement, “capitalist relations,” and self-employed or independent sex work. The DMSC’s categorization of sex work in West Bengal is largely similar. O’Connell Davidson asks whether sex work involves enslavement, direct or indirect employment, or self-employment (1999, 10), while Truong finds that it implicates relations of confinement, enterprise labor, self-employment, and primitive labor (1990, 184–85). Primitive labor relations here involve ad hoc street soliciting, while those of confinement involve mainly children and teenagers whose basic needs are met but who are paid little or nothing for sex work. Enterprise labor relations are seen in entertainment establishments that pay women a daily or monthly wage or a commission, while call girls and escorts are self-employed and pay a third party a commission for locating customers. Marjolein van der Veen (2001, 44) identifies five possible class processes that overdetermine the commodity in sex work, namely, the slave, feudal, independent, capitalist, and communal processes. Except for the independent class process where the sex worker produces, appropriates, and distributes the surplus herself (Van der Veen 2002, 146), in the slave, feudal, and capitalist processes, the surplus is produced by the sex worker but appropriated by another person under varying conditions of functional independence for the sex worker. This is achieved in the slave process through a property relation (*ibid.*, 116–17). The feudal class process involves “personal bonds [that] tie the producer and appropriator of surplus in a long-term arrangement, preventing the producer from leaving the feudal relation for a particular period of time” (*ibid.*, 132–33). The capitalist class process in contrast involves “impersonal and more fleeting connections between producers of surplus and capitalist appropriators. The prostitute can theoretically quit at any time” (*ibid.*, 159). Finally, the fundamental class process (production and appropriation) is distinguished from the subsumed class process (distribution of surplus), which she argues affects the rate of exploitation and the commodity of prostitution (*ibid.*, 175).

In my ethnographic chapters so far, I have detailed three modes of organization of sex work in Sonagachi and Tirupati, including bonded labor, contractor sex work, and self-employed sex work. I do not, however, use this term interchangeably with class processes, hoping instead to convey the range of sociocultural meanings that these modes have in their concrete institutional settings. After all, class processes tell us only a part of the story when it comes to exploitation in that the experience of a self-employed sex worker in Sonagachi is very different from that of a street-based sex worker near Tirupati’s bus station. The self-employed sex worker in Sonagachi is likely to be a rent-controlled tenant whose bargaining power vis-à-vis the landlord is conditioned by her knowledge that he will compensate her for her secure tenancy interest when she chooses to leave the room. This can hardly be said for the self-employed street-based sex worker. Nonclass processes like legal, cultural, political, and economic factors (Van der Veen 2001, 47–48) are undoubtedly vital as Van der Veen proposes, yet are themselves too general for the sex markets I deal with,

especially when each of these factors changes according to the institutional setting in which sex work is performed.<sup>24</sup> For instance, a legal realist view suggests that laws impacting sex work go well beyond the anti-sex work criminal law and necessarily change according to whether sex work is performed in the household, street, or hospitality economy, or the subsectors within them. Similarly, the emotional economies of sex work are likely to be quite different for a sex worker in a brothel in a red-light area as opposed to a housewife who is a secret sex worker. The institutional setting in which sex work is anchored, for one, influences the range of internal and external stakeholders and the relational dynamics among them. Similarly, the same redistributive proposal could have very different consequences for sex workers in different institutional settings; while legalization for empowerment may potentially benefit brothel-based sex workers, the visibility it offers “secret” sex workers will affect them adversely.

Having accounted for the institutional setting, however, no particular mode of organization of sex work or class process is unique to it. Other factors that determine the extent of exploitation include the spatial concentration of sex work businesses, which offers prospects for safety from abusive stakeholders but can also skew the economics of the local real estate market as it has in Sonagachi. Similarly, the scale of the sex business is also critical for sex workers’ bargaining power, although in both Sonagachi and Tirupati, the scale of the sex business tends to be small. In other words, when compared to a sauna establishment in the Philippines that has between sixty and five hundred employees (Lim 1998, 113) or a massage parlor in Bangkok with an average of less than a hundred employees (*ibid.*, 145), even large brothels in Sonagachi do not approach the lower end of that number.

When it comes to Sonagachi and Tirupati, the self-employed mode of organization is evident in several institutional settings where sex work is performed. This does not mean that they are not exploited, only that the disparity in value when compared to sex workers under the other two modes is lower and that sex workers themselves are notionally in charge of the rate of exploitation. As for slavery, the *chhukri* mode in Sonagachi connotes relations of enslavement,<sup>25</sup> in particular, bonded labor. Here, a contextual understanding of bonded labor as slavery is necessary. Van der Veen clarifies that although bonded labor does assume a class process of slavery, it could under certain circumstances become a feudal process if the sex worker is not physically confined, deceived, or coerced, if she can work for herself part-time, and if there are some long-term personal bonds and reciprocal social obligations between the moneylender and the sex worker (Van der Veen 2002, 136). Some of these aspects may be present when a sex worker works as a *chhukri* in return for the advance made by the brothel keeper to her family where they are both from the same village or have some preexisting connection.<sup>26</sup> From the accounts of *chhukri* in Sonagachi and bonded labor sex work in AP’s lodges, however, such an arrangement is less common, with sex workers tending to be trafficked and payments made to third parties like the trafficker, forming the basis of their bondage. Further,

Van der Linden points to intermediate forms of labor between wage labor and slavery, where slaves perform wage labor and wage laborers are, in fact, bonded laborers (2003, 5). The former is seen in Sonagachi, where a *chhukri* is sent to other Indian cities for sex work on contract by the brothel keeper. Here she performs wage labor for the person to whom the brothel keeper lends her services. In this sense, she is both enslaved and subject to wage labor.

If one were to consider the intermediate category of relations between enslavement and self-employed sex work, things get complicated. Note the range of terms used to identify the intermediate class process in sex work: direct or indirect employment, enterprise labor, the contractor mode, and the capitalist class process. Although these terms undoubtedly work for the contexts that they are used in, as I will show, they do not translate easily in the context of Sonagachi and Tirupati. Neither the *adhiya* mode nor sex work on “contract” is a form of employment, nor are they organized or appropriated by capitalist enterprises. The contractor mode is a more suitable characterization for the following reasons. Just as the vocabulary of the domestic labor debates was inadequate for capturing the complexity of female reproductive labor, not in the least because it measured housework against male wage labor, so, too, terms typically used to characterize labor forms and class processes in other sectors need modification when applied to sex markets. To the extent that capitalist class processes are informed by an imagination of a male salaried wage laborer for a capitalist, or at any rate a significantly more powerful employer, the intermediate mode of organization of sex work needs to be refined given the transactional nature of sex work. Moreover, Van der Linden, drawing on recent scholarship on South Asian labor, suggests that the boundaries between unfree labor, self-employment, and wage labor are not absolute (2003, 1), and they encompass a range of class processes in between (*ibid.*). I am interested here for the most part in the class processes he identifies between wage labor and self-employment, especially the examples of where wage laborers in agricultural labor come to work with their own implements (indicating self-employment), or where wage laborers borrow their means of production from the employer.

We already know that the *adhiya* mode of organization of sex work resembles sharecropping practices in rural Bengal prevalent since the feudal period. Agrawal notes similar practices among sex workers in the Bedia community in the Indian state of Madhya Pradesh (Agrawal 2008, 80n5). The considerable turnover of *adhiyas* in Sonagachi with any particular brothel keeper suggests their relative independence and an apparent contractor status. Similarly, *adhiyas* cannot sell their sexual labor in Sonagachi without a preexisting tenancy arrangement. To the extent that the brothel keeper provides access to brothel space in the red-light area, sex workers can be viewed as borrowing their means of production from the employer while still maintaining some control over their conditions of work. This does not mean that she can repeatedly refuse customers who come to the brothel or refuse to pay the arbitrary charges levied by brothel keepers in the name of expenses. However, what it does mean is that an

adhiya, if regularly inconvenienced at a brothel, can quit and work as an adhiya at another brothel. While the situation of the adhiya may not appear to be that different from a wage laborer then, there is a difference in degree. Like the wage laborer, she is highly economically vulnerable, but is not tied to the brothel keeper in the way that a wage laborer working in a factory is to salaried employment with a significantly more powerful employer. The adhiya mode then more appropriately is intermediate between wage labor and self-employment.

Unlike Sonagachi, in Tirupati colloquial terms suggesting the modes of organization in sex work are less explicit; the most common term indicating any mode is doing sex work “on contract.” In the fixed income contract, the lodge owner pays the sex worker a fixed amount and appropriates the surplus generated from each additional sex work transaction. In light of this and the relative youth and inexperience of sex workers who need brokers to mediate these contracts, the contracts are closest to a capitalist class process. The “per transaction” contract resembles the adhiya mode, where the lodge owner appropriates the surplus but distributes it to the sex worker for every transaction, often in highly unequal proportions exceeding the 50 percent share of the adhiya mode. The nonremunerative contract is similar, although there the lodge owner appropriates the entire surplus without distributing any money to the sex worker. Despite the incredible disparity in value in these two contractual arrangements, sex workers who typically choose such contracts tend to be older, self-employed sex workers who decide whether to work at a lodge and for what period of time. Here the mode of organization is intermediate between wage labor and self-employment and can be more appropriately referred to as the contractor mode. Thus, “capitalist” class processes applicable to wage labor cannot be applied uncritically to sex work.

I have tried to argue so far that an overarching theory of exploitation in relation to sex work is not possible given the heterogeneity of sex markets and the varied modes of organization that mediate it. Although class processes offer some indication of the extent of exploitation, they are inflected by several other factors, including the institutional setting in which sex work is performed, its location, and the scale of the sex business. The question remains as to how we may detect and measure exploitation and respond to it appropriately. Exploitation could be measured in terms of the three alternate situations to being exploited (Munro 2008, 85, quoting Wilkinson), including the preinteractive baseline (the outcome had the parties to the transaction never met), the closest possible world baseline (the outcome had the exploited person entered into the same kind of transaction with someone other than the exploiter), and the normative baseline (the outcome that is normatively desired for the exploited person). Barring sex work under debt bondage or similar situations of enslavement, doing sex work will invariably put the sex worker above the preinteractive baseline, whether she resorts to it out of dire poverty or “dull economic compulsion,” as the remuneration in sex work is often a high multiple of the income from traditional female sectors of employment. This is a baseline that



feminists would rightly argue justifies the status quo, and therefore not one on which to base redistributive efforts. This leaves us with the “closest possible world” baseline and the normative baseline. The former is inextricably tied into the current logic of the sex market, so let us call it the *market baseline*. The *normative baseline*, on the other hand, is highly likely to envision a world that is free of sex work. The market and normative baselines would thus be diametrically opposed for abolitionist feminists. However, for the work position, which treats sex work as a legitimate form of work, the market baseline and the normative baseline would still be very far apart but not diametrically opposed. It is between these two baselines that attempts at redistribution need to be located.

De-exceptionalist suggestions to target the exploitation in sex work call for factoring in the interests of those outside the sex industry (Munro 2008) or for addressing the interests of the beneficiaries rather than solely focusing on the victims themselves (Marks 2008). Both these suggestions have been deployed in the context of sex work to shore up abolitionist positions under the pretext of protecting the interests of wives, as in the strikebreaker argument, or by penalizing customers who are the most immediate beneficiaries of sex work. In both instances, sex workers would bear the brunt of the redistributive moves. A similar proposal to eliminate the exploitation in sex work involves treating contracts for sexual services as illegal so that sex workers could still demand payment for services rendered, or protest poor working conditions (Hernández-Truyol and Larson 2002, 207), but under which the employer would be penalized as well as the john, pimp, and all other business interests (ibid., 206). Thus, there is a real likelihood that an attempt to revocabularize the sex work debates in terms of a theory of exploitation will be highly prone to abolitionism.

For a de-exceptionalist treatment of sex work as work, bridging the gap between the market and normative baselines is challenging, not in the least because there are few tangible goalposts for the normative baseline other than to ensure that sex workers under safe working conditions produce, appropriate, and distribute the surplus from sex work among themselves rather than to other stakeholders in the business. In chapter 6, I have assessed whether three ideal-typical regulatory scenarios encompassing partial decriminalization, complete decriminalization, and legalization for empowerment are geared toward achieving these objectives. Apart from highlighting the unintended consequences of law reform proposals, even assuming the complete operation of the law, the exercise threw up a range of normative questions for both feminists and sex workers, irrespective of whether we aim to achieve internal redistribution through reform in the formal state law or self-regulation. To illustrate, in Sonagachi do we want independent sex workers with secure tenancy interests and increased income from sex work but without the protection of brothel keepers or dalals when faced with abusive customers fostered by enforced partial decriminalization? Or do we prefer complete decriminalization where an increase in brothel-based sex work is accompanied by independent sex workers working in small collectives, incurring greater housing costs than before



but benefiting from reduced payouts to the police and goondas? Alternatively, which model of legalization for empowerment is beneficial for sex workers: one that creates two submarkets in Sonagachi or one that eliminates brothels entirely but imposes a minimum wage that sex workers might contract around? In other words, attempts to minimize the gap between normative and market baselines and achieve redistribution continues to throw up normative choices for feminists. While this analysis presumes an intensely microlevel assessment of rules on a range of stakeholders and the sex market as a whole, we could still attempt to scale up the results, especially to the extent that Indian sex markets exhibit some structural commonalities, possibly even rendering Sonagachi and Tirupati as archetypical North Indian and South Indian sex markets. This may necessitate regulatory models tailored for specific sex markets rather than assuming that one national level law can realize its goals in highly disparate settings.

Ultimately, of course, given the political climate for the realization of sex workers' rights and the rights of workers in the unorganized sector in general, we would be justified in asking if state-based law reform might not be an unreliable platform from which to launch projects of internal and external redistribution. My review of federal and provincial Indian labor laws and their applicability to sex work suggests that even the benefits of the most farsighted legislation geared toward the specific labor markets of the unorganized sector seem to have been secured by membership-based organizations run by the DMSC in West Bengal. This is especially true given that the recently passed social security legislation for workers in the unorganized sector appears less to confer rights than treat them as beneficiaries of government schemes (Goswami 2009, 18). The DMSC, on the other hand, provides access to credit and savings schemes, educational facilities for sex workers and their children, primary health, and an avenue for cultural expression, while fostering an active political culture of protest against abusive customers, landlords, and brothel keepers. While much remains to be done for sex workers nationally, what has repeatedly struck me is how, despite a highly abusive anti-sex work criminal law, an organization of sex workers has taken root in a red-light area like Sonagachi to achieve the very results of labor laws that the DMSC is so keen to have applied formally to the sex industry. The scale at which the DMSC currently operates (with nine hundred staff, for instance) and its internal configuration into separate project and mobilization wings means that the DMSC may be able to weather the loss of funding should HIV prevention no longer become a priority for international public health bodies. These paradoxes of regulation and sex workers' own conflicted demands of the state present both feminists and sex workers' groups alike with an opportunity to consider prospects for self-regulation among sex workers themselves. Yet as I have demonstrated in both Tirupati and Sonagachi, self-regulation by sex workers is as capable of routinely reproducing conservative stereotypes of "good" and "bad" women as state law is. Like other population groups in the need economy engaged in

illegal activities, sex workers may regulate the size of their sector so that all concerned have a livelihood (Chatterjee 2008, 58). Although the DMSC is far from “regulating” Kolkata’s sex industry in this sense, it has gained some influence in many of its red-light areas by setting up self-regulatory boards. These boards may well foster “sexual communism” in the future (Van der Veen 2002, 208), although it is premature to evaluate the DMSC’s experience with these self-regulatory boards and branch committees. There also remains the question of whether it can be replicated for dispersed sex markets like Tirupati in Southern India and even in other Indian red-light areas. Meanwhile, grappling with the state while still being distanced from it seems to be a point to which the lumpen proletariat will always return in their elusive quest for justice.

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### Chapter One Dangerous Sex, Invisible Labor: An Introduction

1 The Durbar Mahila Samanwaya Committee (DMSC) is a sixty-thousand-member-strong sex workers' organization based in the Indian city of Kolkata.

2 See chapter 5 for details of these stakeholders.

3 For an excellent critique of one such media representation of "sex slavery" in South Korea and the "truth power" of investigative journalism, as Cheng calls it, see Cheng (2008).

4 This is used to connote the consolidation of feminist viewpoints in legal institutional terms.

5 I deal only with the sale of sexual services for consideration here and exclude other forms of sexual commerce such as pornography, bar dancing, and so on. See note 6 in chapter 7 for an explanation of the phenomenon of bar dancing.

6 Throughout the book, I use the term "informal economy" interchangeably with "unorganized sector," the term commonly used in the Indian context to connote the informal economy. An expansive definition of the informal sector includes employers of informal enterprises, all self-employed persons other than self-employed professionals and technicians, and all wage workers who work without minimum wage, assured work, or benefits, whether they work for formal or informal firms, including employees of informal firms, domestic workers, casual workers, home workers, temporary and part-time workers, and unregistered workers (Chen, Jhabvala, and Lund 2002, 5).

7 I use the term "third world" interchangeably with "developing world."

8 Produced and directed by Zana Briski and Ross Kauffman, December 8, 2004.

9 Also referred to as the "prostitution loyalty oath," the oath requires that U.S. and foreign NGOs receiving funding from the United States Agency for International Development (USAID) must adopt a policy "explicitly opposing prostitution and sex trafficking." See <http://www.genderhealth.org> for further details.

10 This is not unlike the role of the medical profession in the case of abortion in the United States, where much of the public and major organizational support for the repeal of restrictive abortion laws came from elite professionals, particularly doctors (Rosenberg 1991, 261–62).

11 An important exception is Kapur (1978).

12 I use stakeholder analysis to mean "an approach, a tool or set of tools for generating knowledge about actors—individuals and organizations—so as to understand their behavior, intentions, interrelations and interests; for assessing the influence and resources they bring to bear on decision-making or implementation processes" (Varvasovszky and Brugha 2000), 338.

13 See Kennedy's discussion of this aspect of Foucault's work (1993, 114–15).

14 There is a huge street-based sex worker population in Kolkata, known locally as "floating" or "flying" sex workers, that has existed since the turn of the twentieth century (Banerjee 2000, 87), although its presence in red-light areas is a relatively new phenomenon (Durbar Mahila Samanwaya Committee 1999a, 3). There are no unique forms of sexual commerce in Kolkata, like Mumbai's dance bars or cage brothels; Kolkata does, however, have a significant number of male and transgender sex workers, call girls, and massage parlors.

## Chapter Two Revisiting the Material: Recasting the Sex Work Debates

1 Generally, see Munro and Stychin (2007, xi–xvii) on feminist legal theory and sexuality.

2 See, for instance, Doezenia's reflections on the limitations of aligning with liberal human rights groups over the course of the negotiations leading up to the UN Protocol (Doezenia 2005).

3 Zelizer proposes three distinct ways of viewing the purchase of intimacy. The first is the "Hostile Worlds" view, where "such a profound contradiction exists between intimate social relations and monetary transfers that any contact between the two spheres inevitably leads to moral contamination and degradation" (2000, 818). The second approach is the "Nothing But" approach, where "intimate relations involving monetary transfers are (a) nothing but another rationally conducted exchange, indistinguishable from equivalent price-making markets; (b) nothing but another expression of prevailing cultural values; or (c) nothing but coercion" (ibid.). The third approach is of "Differentiated Ties," which acknowledges that "intimate relations involving monetary transfers include a variety of social relations, each marked by a distinctive pattern of payment" (ibid., 819).

4 See Janet Halley's discussion of the early and late MacKinnon in this respect (2006, part 2).

5 While abolitionists would claim that consensual and forced prostitution both amount to slavery under the Thirteenth Amendment of the U.S. Constitution, Neal Katyal restricts this to forced prostitution, where physical or legal coercion would need to be proved (1993, 793). Cases of forced prostitution have generally been prosecuted under the "involuntary servitude" clause of the Thirteenth Amendment (ibid., 808). See also MacKinnon (1993).

6 Agustín lists similar binaries in the context of recharacterizing the epistemology of migrant sex work (2007a, 47).

7 See Sanghera (2005, 11) for a similar argument in relation to eliminating trafficking from the sex industry.

8 See chapter 6 for a discussion of specific provisions from proposals for legalization for empowerment.

9 She suggests that sex markets may contract as the housework market in the United States once did. As domestic workers found industrial work, housekeeping was performed by wives or well-paid maids. For a comparison between the transitional nature of housework in the United States with Latin America, where domestic help continues to be common among middle-class households, see Wrigley (1991, 317, 327–28). In India, however, in the absence of better work prospects in the organized sector, and the low educational and skill level of sex workers, such contraction in the sex market is unlikely.

10 Strikingly similar to middle-ground feminism in the sex work debates is the role of moderate feminism in the American sex wars. Gayle Rubin argues that moderate feminism is politically hazardous (1984, 303, 304) because it usually falsely characterizes the poles of the debate, derives political mileage from portraying radicals as extremists, and defends sexual dissidents' rights to political participation out of "ideological condescension." Most relevant to the sex work debates is how sexual dissidents in the sex wars were told that they had not paid enough attention to the meaning of their sexuality, which was considered to be problematic in a way that conventional sexualities were not. Also, consistent calls to pay attention to the structural constraints on consent in sexual behavior ignored the fact that consent was less important for much sex law relating to sodomy, adult incest, and S/M.

11 Art. 3. (a): "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs; (b): The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.

12 Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention against Transnational Organised Crime, and adopted by the United Nations in Palermo, Italy, in 2000 along with the UN Protocol on trafficking.

13 For example, the political economy chapter in the 1995 book *The Industrialization of Sex* did not exist in the 1979 text.

### **Chapter Three Theorizing the Lumpen Proletariat: A Genealogy of Materialist Feminism on Sex Work**

1 Marxist feminists maintained that capitalism was fundamentally driven by the accumulation of profit through the extraction of surplus labor, which it achieved through historically varied patriarchal structures (Hennessy 2000, 28); capitalism was then the material basis, and ideological factors reproduced the sexual division of labor based on biology (Juteau and Laurin 1989, 20). Vogel notes that the term "materialist feminism" was used "both to invoke Marxism and to maintain our distance . . . to signal the key role, mediated and determinant only in the last instance, of human labor and material processes—most especially those carried out primarily by women and previously invisible to theory" (1995, xii). In other words, materialist feminists eschewed the causal relation between capitalism's economic arrangements and its politics and cultural forms (Hennessy 2000, 28) and "accord[ed] a central place to sex classes and their material basis, that is, the appropriation of women's work by men" (Juteau and Laurin 1989, 20). Materialist feminism was thus presented as moving toward the construction of a marxist feminism to the extent that it is an attempt to transform marxism (Kuhn and Wolpe 1978, 8–9; lowercase of "marxist/marxism" is used here to maintain authors' sensibility). Socialist feminism, on the other hand, attributed women's position to the system of capitalist patriarchy (Holmstrom 2002, 5).

2 Customers were not held guilty of labor desertion. One could, however, imagine sanctions on the basis that visiting sex workers reduced male productivity, or that they were violating the communist spirit of treating women as equals and with respect.

3 See Coalition Against Trafficking of Women handout on domestic violence (on file with author).

4 Truong attributes this to the fact that Engels recognized the material meaning of sexuality only in terms of private property rather than also in terms of human labor (1990, 35).

5 See Vogel (1995, 60–61) for an explanation of the appeal of radical feminism for materialist feminists.

6 For a sense of the complex internal debates on salaries for housewives within Italian feminism, see Bono and Kemp (1991, 260–72). Concerns pertained to the normative and practical implications of a “salary” for housewives.

7 Materialist feminists at a political level continued to support sex workers against the state. To illustrate, in 1984, Labour Party feminists in the Camden Women’s Committee, at the risk of alienating the Labour Party (An Interview with Labour Party Feminists 1984, 84) advocated for the decriminalization of prostitution, for laws on pimping and kerb crawling, and the protection of sex workers against police harassment when they filed a complaint (The Women’s Movement and the Labour Party 1984, 84).

8 Fortunati also mentions this in the context of gestation, for which sexual work is necessary. For a more detailed listing of nonmaterial use values within domestic labor such as sexuality, love, affection, and companionship, see Fortunati (1995, 74–76).

9 Juteau and Laurin draw on Guillaumin’s theory of *sexage* whereby men make use of women’s unpaid labor power through the collective, material appropriation of the physical individuality of the class of women (1989, 23). Guillaumin proposed that marriage was a restrictive and particularized form, while abduction, rape, prostitution, and adultery were less restrictive forms. Although Guillaumin offers a wider canvass when compared to other materialist feminist theories on which to theorize the labor of sex workers and nuns, it shares with radical feminism what Duncan Kennedy calls “paranoid structuralism” (2001, 1173–74). The symbolism used to explain the theory of *sexage* is telling in this respect: “Inside this cage [found in a henhouse] are closed compartments that correspond to life situations. These situations represent the specific modalities of appropriation, either private or collective. A compartment is assigned to each of the subdivisions. This organization is static and keeps movement between the situations to a minimum” (Juteau and Laurin 1989, 27). Women have some freedom to circulate among the various modes of oppression, yet “like a squirrel in the cage, they are really running in circles without getting any place” (*ibid.*, 36). This paranoid structuralism is not altogether inexplicable, if, as the authors argue, European materialist feminism evolved from radical feminism (*ibid.* 1989, 16).

10 Dependency theorists argued that parallel, internally contained homogenous processes of capital accumulation were occurring in the center and the periphery—peculiar to the capitalist mode at the center and original or primitive at the periphery. Dependency feminists objected to this formulation because they viewed the two processes as constitutive of each other (Mies, Bunnholdt-Thomsen, and von Werlhof 1988, 15, referring to Amin 1971). Again, although Kabeer refers to dependency feminists as feminists who privileged class over gender in their analysis, and the German feminists that I consider privilege gender over class, I refer to the latter as dependency feminists, as they substantially agree with the insights of dependency feminism.

11 For Harvey, “historicist/diffusionist interpretations treat the political economic development of the advanced capitalist countries (the West) as the engine of capitalism that entrains all other territories, cultures and places into paths of economic, political, institutional and intellectual progress” (2006, 72). Uneven geographical development and backwardness are interpreted as the product of a differentiated diffusion process characterized by an unwillingness or inability to catch up with the West.

12 See, for instance, the care work debates among American legal feminists. Summaries of the varied positions are available in Becker (2002), Quinn (2002), and Tsoukala (2007).

13 D’Cunha uses the term North and South, which I have substituted with first world and third world or developed/developing worlds, respectively, to ensure consistency. These two sets of terms can mean slightly different things; while the terms first world and third world are fixed geographically, the terms North and South are not, so that the term North refers both to the first world and to first world conditions in the third world. D’Cunha, however, focuses on conditions in the third world.

14 A recent socialist feminist reader, for instance, had two articles on sex work (Holmstrom 2002).

15 Hence, in a society where there is universal prostitution and men and women are free to sexually associate with whoever they want, we would not have an institution like prostitution, where one has to pay another for sex.

16 While in sexual barter companionship is sold and bought, in postindustrial sexual commerce, an array of sexual services beyond sexual intercourse are available. Modern prostitution, on the other hand, is typically restricted to quick sexual release. Sexual barter is characterized by self-organized, occasional exchanges in which women trade sexual favors during limited periods of hardship. Modern prostitution, in contrast, emerging from dislocations of modern industrial capitalism, is large-scale, commercialized, and urban, and is premised on the existence of an organized and relatively autonomous sphere of public commerce, as well as on individuals disembedded from traditional kin networks so as to serve as consistent demand and supply. Sexual barterers take place on the street and tenements, and are small in scale, while modern prostitution is found in spatially bounded red-light areas and post-industrial sexual commerce in dispersed locations. Sexual barterers are carried out informally, modern prostitution with the help of third-party managers, and in the case of postindustrial sexual commerce, through “virtual” middlemen and technological mediation. Finally, the state is generally tolerant of sexual barterers while it criminalizes modern prostitution, and in the case of postindustrial sexual commerce targets street-based sex work and migrants while problematizing demand and trafficking (Bernstein 2007a, 170).

17 In the context of surrogacy, Singer notes the progressive commodification of women’s bodies without any material benefits and their status as unpaid laborers (1993, 97). She is, however, opposed to payment for surrogacy, preferring that we aspire to a situation when women are no longer in the position of having to exchange their reproductive labor for economic support (*ibid.* 1993, 99).

18 By sex, I mean what Janet Halley calls sex2 or “everything that turns us on. The erotic. The paradigm image here is ‘fucking’” (2006, 24).

19 For instance, even in countries like Sweden with comprehensive social safety nets, there is a prostitution problem. Sex work in massage parlors was on the rise in countries like Norway even as late as the first half of the 1990s (Skilbrei 2001).

20 Mies expresses exactly this fear when she rejects the dual systems theory proposed by materialist feminists, worried that such a theory might confine women's oppression under patriarchy to the private sphere and that of capitalism to the public sphere.

21 Kennedy observes that "paranoid structuralism teaches us that it is part of our modern social and individual psychological condition that we are playthings of forces whose existence and true relationships the 'normal' discourse of our world denies, thereby helping to reproduce the denied condition. The forces have a 'logic' we can master, to some extent, but only if we overcome the denial" (2001, 1169). He characterizes MacKinnonite radical feminism as paranoid structuralist, for example (1181).

22 I am referring here to North American radical feminism; not all radical feminists pursued law reform. Indeed, Marella reports that Italian radical feminists viewed the law as a tool of oppression, offering no possibility of justice (2008, 80). In her account, British socialist feminists used the law more tactfully (73).

#### Chapter Four Not on the Lord's Agenda: The Traveling Sex Workers of Tirupati

1 As of March 15, 2011, one U.S. dollar roughly equaled forty-five Indian rupees.

2 Seventy-six percent of Tirupati's residents view the city's physical space as sacred (Choodamani 1998, 154). Of the 22 percent who don't, 44 percent believed that even in Tirupati, "various types of activities are permitted just like in other places" (ibid., 157). Pilgrims, meanwhile, are likely to perceive Tirumala as sacred.

3 *Tevadia* means whore and *mundai* means widow.

4 This could relate to the stigmatized nature of sex work. In Rajahmundry in coastal Andhra Pradesh, 74 percent of sex workers surveyed felt that their work was immoral; only 31 percent were proud to be a sex worker. Eighty-nine percent agreed that sex workers should have rights (Project Parivartan 2007, 16).

5 In Tirupati, neither marital sex nor sex work involved disrobing by women. Kakar, based on interviews with wives from an untouchable caste in a Delhi slum, similarly reports that disrobing for sex was considered shameful even in marriage (1989, 21). Others have read the terms *kaam* for coitus and *yantra* (tool) for the penis to indicate the instrumental object-relation of men to nature and women, characterizing male dominance (Mies 1998, 57).

6 In a 2006 baseline report of the International HIV/AIDS Alliance surveying 6,648 sex workers in Rayalseema and Telangana, street-based sex workers were more likely to have been married and started sex work at a later age, typically their twenties (International HIV/AIDS Alliance 2006, 9–12). Rayalseema and Telangana comprise two of the three regions of AP, the coastal regions being the third region. Rayalseema, where Tirupati is located, is affected by low rainfall, degraded environment, high unemployment, and factional feuds, but is less backward than Telangana, which is often drought-stricken with high rates of outward migration and is the site of the insurgent Naxalite uprising.

7 Dormitory-style accommodation constructed by the TTD for pilgrims.

8 Ink-whitening fluid sold in stationery shops; each six-ounce bottle costs ten rupees (twenty-two cents).

9 The study determined the "count-on score" based on sex workers' responses to seven parameters, covering whether they could count on someone in relation to work (abuse, customer's demands for sex without a condom, and refusing a customer) and personal problems (requesting money, food, or a place to stay; for going to the doctor

and discussing other problems). The “life-skills score” measured sex workers’ responses to ten similar questions covering a sex worker’s control over decisions affecting her life and work (International HIV/AIDS Alliance 2006, 17).

10 *Pucca* houses are made of bricks or concrete whereas in *kucha* houses, the roofs are thatched and there may or may not be solid walls.

11 These *panchayats* are different from the *panchayats* mentioned later in this chapter, which are village-level bodies of elected representatives that perform administrative functions; the latter are the smallest unit of local government.

12 In cities like Kovalam in Kerala, the hotel owner may well have a functional role to play in hotel-based sex work by employing only female staff who do sex work (National Commission for Women 2002, 178).

13 Hotel owners in the northern state of Gujarat cited luxury taxes, a 45 percent electricity duty, and minimum wages for hotel employees as a huge financial burden, thus justifying this decision (*Times of India* 2003a).

14 For Mumbai-based sex workers traveling to Surat to do sex work on a daily basis, this was convenient (*Times of India* 2003a); rooms would also be rented out for an hour without an entry in the hotel register.

15 Literally, maternal uncle, but used figuratively in this context.

16 In Chittoor district, there are six female subinspectors and assistant subinspectors and eighty-eight female officers below the rank of assistant subinspector (State Crime Records Bureau, AP, 2007, table 22.3).

17 Women constables tell feminists that male constables view them as their “unauthorised prostitutes” (Punwani 2003, 12).

18 See Sections 13 and 14 of the ITPA (Reddy 2004, 62–63 and 68–69, respectively).

19 Eighty-seven percent of sex workers in the International HIV/AIDS Alliance baseline study of sex workers in the Rayalseema and Telangana regions of AP belonged to the backward castes, scheduled castes, and scheduled tribes. Thirty-five percent belonged to the scheduled castes and were *dalits* (International HIV/AIDS Alliance 2006, 10).

20 On the constitutive/extractive role of the state in temple administration rather than an instrumental/protector one, see Presler (1983, 232, 236, 245).

21 One lakh equals 100,000; one lakh rupees is roughly \$2,206.

22 Although the data does not differentiate these women as sex workers or brothel keepers, Sen and Nair (2004) assume that it is sex workers, or “victims of commercial sexual exploitation,” who suffer from discriminatory enforcement patterns (*ibid.*, at 5).

23 In June 2004, this requirement was waived for three hundred sex workers, who were recommended by DMSC to open accounts at the State Bank of India (*Financial Express* 2004). The Sonagachi branch of the bank started issuing passbooks with sex work in the occupation line, where earlier, a sex worker described herself as a housewife or domestic help (*Hindustan Times* 2004b).

24 “Section 294: Obscene Acts and Songs—Whoever, to the annoyance of others—(a) does any obscene act in any public place, or (b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.”

25 A cognizable offense is an offense where the police officer may arrest without warrant.



26 These statistics are from the special section on anti-human trafficking in the annual crime reports introduced by the State Crime Records Bureau from 2006. However, the same report lists different numbers for ITPA cases in a chapter on SLL crimes in AP. For 2002, 2003, and 2004, the number of listed cases was eleven. For 2005, 2006, and 2007, the numbers were thirteen, seven, and twenty-one (State Crime Records Bureau, AP, 2003; 2005; 2006; 2007).

27 Data on offenses under the Railways Act, 1989, as an SLL is collected by the NCRB. However, the number of reported cases has fallen because the Act's enforcement has been transferred from the state police to the Railway Protection Force (RPF) from which the bureau could not collect data. In any case, this data does not specifically detail offenses booked against stakeholders in the sex industry.

28 This includes committing an act that causes annoyance to the public or people who dwell or occupy property in the vicinity, or who may have any public right in relation to it. This attracts a fine of 200 rupees. The punishment under this section is three months' imprisonment, or a fine, or both.

29 In Mumbai, "convictions" of sex workers under the Bombay Police Act, 1951, were counted in performance appraisals (Sen and Nair 2004, 111).

30 This level has been fairly low in AP, unlike in Sonagachi; only 9 percent of the sex workers in an International HIV/AIDS Alliance baseline study participated in support groups. This was uniform across the institutional settings (International HIV/AIDS Alliance 2006, 16).

31 In contrast, the 2007 study of sex work in Rajahmundry suggests that house-based sex workers were more likely to have interactions with the police when compared to other sex workers (Project Parivartan 2007, 14).

32 Vasanthakumari belonged to the Reddy caste, also the caste of the then state's chief minister who was from the Congress party, whereas his predecessor, Chief Minister Chandrababu Naidu of the Telugu Desam Party (TDP) belonged to the Naidu caste. In effect, Vasanthakumari accused the local TDP leader of pressurizing the police and instigating the raid.

33 Larsen similarly observes how sex workers in Vancouver stayed off the street soon after Bill C-49 was passed, which criminalized communication for prostitution, in order to gauge how the police would enforce the new law.

34 A constitutional designation for members of certain tribes needing special protection in light of their social, economic, and educational backwardness.

## **Chapter Five Born unto Brothels: A Kolkata Red-Light Area**

1 Accounting for the high mobility of sex workers, the constant flow of sex workers from rural areas, seasonal prostitution, and high-end sex work involving call girls and flying sex workers, DMSC puts the actual number at being between 50,000 and 100,000 (All India Institute of Hygiene and Public Health 1994, 39).

2 Sex Workers Population 2003 (in possession of author). These estimates can vary considerably. At the time of Melinda Gates's visit to DMSC, newspaper reports estimated that 15,000 sex workers worked in Sonagachi.

3 In Hindi, literally, a woman from the city of Agra in the neighboring state of Uttar Pradesh. Agrawalis are said to belong to the Bedia caste, whose women customarily do sex work while their brothers marry. They are typically fair-skinned when compared to

Bengali women, and have a reputation for adopting young girls and grooming them for sex work.

4 See chapter 6 for details of the case law.

5 As I suggest in chapter 4, for many public health researchers, a managerial presence is sufficient to label sex work as brothel based. I use the term “brothel” in a specific institutional sense rather than merely where sex work is organized through a labor relation.

6 The terms for modes are also used in noun form for sex workers.

7 In other Kolkata red-light areas, a brothel keeper who runs her business in the same house where she lives is considered inferior in status in the brothel hierarchy (Joardar 1984, 106).

8 In Bengal, a standard *bigha* equals 1,600 square yards or a little less than a third of an acre (Guha 1981, 225).

9 See Dell 1999, 102, for a similar description of the homes of Agrawalis.

10 This could be a beneficial role where a landlord arranges for bail or offers sex workers protection against a goon. Alternatively, the landlord may himself be a goon, finance the trafficking of *chhukris*, compel sex workers to purchase consumables at a premium, or collect bribes to pay off policemen.

11 Section 18 of the 1997 West Bengal Premises Tenancy Act requires the fair rent to be automatically increased by 5 percent every three years.

12 Selami is common in most tenancy arrangements. Even the state government requires its payment; an example is where it auctions tea estates to private parties (*Business Line* 2003).

13 In the American context, Edlund and Korn note that brothels provide better environments for both sex workers and customers because reputational concerns and surveillance reduce the risk of robbery, assault, and venereal disease (2002, 187).

14 Monthly rent for a 200-square-foot room in Sonagachi is three times that for an 800-square-foot room in a middle-class residential neighborhood of North Kolkata.

15 This interview is with Madhabi Dhar, treasurer of the DMSC’s art wing Komol Gandhar, conducted on February 4, 2004, in Kolkata by members of the DMSC-TAAH Research Project as part of a larger project of interviews with sex workers. I have a copy of these unpublished interviews.

16 In a 1998 SHIP survey, 73 percent of sex workers, irrespective of their category, had been married before entering sex work (All India Institute of Hygiene and Public Health 1998). An older sex worker expressed her resentment of flying sex workers thus: “My mind has been filled with resentment and anger—not only toward men, but also toward some women and housewives. Some women who live in families as wives come here on the sly and make money. This part of their life is hidden from society. Some of them are caught red-handed, even college girls have been found here. But all the contempt of society is directed toward us. Why? Why can’t we have a decent place in society? Why do people marry our children knowing fully well about their parentage and later abuse them? What steps does society take against such oppressions?” DMSC-TAAH Research Project, 2004, interview of Sangeeta Routh (transcription is in author’s possession) conducted on February 5, 2004, in Kolkata by members of the DMSC-TAAH Research Project.

17 Over one year, a landlord requiring a selami of 50,000 rupees and monthly rent of 1,000 rupees earns 62,000 rupees, while a landlord renting a room to a flying sex

worker for 30 rupees an hour will make 240 rupees per day and approximately 90,000 rupees a year.

18 In 1993, the majority of customers visiting Sonagachi were businessmen, 8.81 percent were students, and 8.2 percent were drivers (All India Institute of Hygiene and Public Health 1993).

19 Dell confirms this (1999, 158).

20 Forty-three percent of babus earned a daily income, most likely in the informal economy, while another 36 percent had a monthly income, possibly from salaried jobs (West Bengal Sexual Health Project 2001).

21 Moorhouse (1971) notes that a goonda was most likely to live in a *basti* or an informal illegal dwelling that was subsequently regularized.

22 For more on the politics of sex worker mobilization and the role of DMSC nationally, see Kotiswaran 2011.

23 For example, when the Sonagachi Project was initiated in 1992, the condom usage rate in Sonagachi was 1.11 percent, whereas by 2001 it had increased to 81.87 percent (Durbar Mahila Samanwaya Committee 2004, 7).

24 In a study of sex workers in Sonagachi, 83 percent had not experienced insults, harassment, threats, beatings, torture, eviction, or extortion in the last three months (Bandyopadhyay and Kerrigan 2004). More than 80 percent said that violence and discrimination against them had reduced in the past several years.

25 DMSC-TAAH Research Project 2004. Interview of Swapna Gayen (transcription is in author's possession). This change in police behavior has been gradual. A report published three years after DMSC was established noted that "harassment by police in the form of raids on brothels, and violence from customers has reduced somewhat, over the years, but not enough to make a difference" (Gonzales et al. 1999, 102).

26 Interestingly, in AP, cases registered under the ITPA are listed in chapters relating to trafficking or the use of special and local laws. In the West Bengal statistics, they are listed under crimes against women.

27 This is mirrored nationally; 52.6 percent of the victims interviewed in a national study indicated that they had never been arrested by the police (Sen and Nair 2004, 91). Only a fourth of the respondents stated that the police visited brothels frequently (*ibid.*, 91). Even then, only half the visits were for purposes of law enforcement (19.5 percent to arrest victims, 11.9 percent to conduct investigations, and 20 percent to prevent soliciting). The rest of the time, the police were in the brothels for sex (15 percent) and to extort money (33 percent) (*ibid.*, 92).

28 Activists in other Kolkata red-light areas confirm this (Sleightholme and Sinha 1996, 48). This is true nationally as well (Sen and Nair 2004, 110). Raids are also known to occur in red-light areas when regular payments to the police have been stopped (*ibid.*, 111).

29 The Indian government echoes the nexus theory by showing that sex workers are continually victimized before trafficking, during trafficking, and post-trafficking by society and "vested interests" (Sen and Nair 2004, 279–80).

30 The response (Raymond 1998) to the International Labour Organization (ILO) report, the Sex Sector (Lim 1998), which labeled the sex industry as an economic sector, is one such example, despite the ILO's specific disclaimer that it was not calling for the decriminalization or the legalization of sex work.

31 See also, *Times of India* 2003b; *Hindustan Times* 2004a; *Statesman* 2004.

## Chapter Six Regulating Sex Markets: The Paradoxical Life of the Law

1 The four phases of the Indian response to the pandemic include denial, being ad hoc, informed, and mature (Commission on AIDS in Asia 2008, 123).

2 There were other problematic provisions in the bill that are critiqued elsewhere (Kotiswaran 2001; Centre for Feminist Legal Research 1999).

3 “Section 5A: Whoever recruits, transports, transfers, harbours, or receives a person for the purpose of prostitution by means of (a) threat or use of force or coercion, abduction, fraud, deception; or (b) abuse of power or a position of vulnerability; or (c) giving or receiving of payments or benefits to achieve the consent of such person having control over another person, commits the offence of trafficking in persons. *Explanation.* Where any person recruits, transports, transfers, harbours or receives a person for the purposes of prostitution, such person shall, until the contrary is proved, be presumed to have recruited, transported, transferred, harboured or received the person with the intent that the person shall be used for the purpose of prostitution,” 2006 Immoral Traffic (Prevention) Amendment Bill.

4 A place is said to be in the vicinity of a public place if it is within 200 meters (approximately 218 yards) of a public place; there are several public places in Sonagachi, including a hospital, a main road, schools, and temples, putting most properties in close proximity of a public place.

5 Most cases under this section concern a brothel keeper rather than the landlord. Even where a manager of a sex business accepts money from the decoy-customer, courts have held that mere acceptance of the cash does not imply that sex work was performed for the manager's gain (*In re Dhanalakshmi* 1974). Similarly, even where a wife did sex work in her marital home while her husband was traveling, the court required that there be satisfactory evidence that the wife's prostitution was for the gain of her husband to sustain the charge that the premises in question were used as a brothel (*In re John and Others* 1966).

6 One might argue that lessees should remain unaffected by the amended ITPA because they have no functional role in sex work. However, to the extent they continue to constitute a layer of intermediaries between sex workers and the landlord, courts may not treat sex workers renting on contract and commission as necessarily being self-employed.

7 Copies of these proposals are available in Kotiswaran (2011).

## Chapter Seven Toward a Postcolonial Materialist Feminist Theory of Sex Work

1 For a detailed consideration of the specificities of the Indian sex work debates, Indian sex workers' mobilization, and their advocacy efforts, especially against the amendment proposed to the ITPA in 2006, see Kotiswaran (2011).

2 Note here the reliance of feminists like Sanghera and Kempadoo on the insights of dependency feminism (Kempadoo 1999, 228–29; Sanghera 1990, 22–23).

3 If anything, feminist theories in this context cordon off sex work from mutual affective sex, even characterizing customers as “social necrophiliacs” (O'Connell Davidson 1999, 209). Nussbaum notes that it is the influence of romanticism on American culture—which views authentic sex as spontaneous, natural, and intermittent rather than performed repeatedly during a workday—that prevents the construction of sex work as legitimate work.

4 Similarly, in her ethnography of sex work in London, Day notes how sex workers referred to physical work and manual labor, which had nothing to do with the self, as distinguished from emotional work, which was kept to the self (2007, 50). She characterizes this as working-class rather than middle-class behavior.

5 Agustín notes that sex-service discourse is similar to discourse on housework and caring, both defining tasks that are bought and sold and that require a special human touch (2007a, 62). Assuming “that the *only* thing that happens in a sexual service is ‘sex,’ reducing the relationship to physical contact between specific points of the body and pretending that nothing else happens” is patently not true (*ibid.*, 65).

6 Bar dancing is a phenomenon where women dance fully clothed to Bollywood music before customers at liquor bars; this was very popular in the western state of Maharashtra before the provincial government banned it. Bar dancers mounted a legal challenge to the ban, which was held unconstitutional by the Mumbai High Court and is currently under appeal before the Indian Supreme Court. See Kotiswaran 2010 for a critique of the Mumbai High Court judgment.

7 Interview with Dr. A. K. Jayasree, FIRM, March 5, 2003, Kolkata, India.

8 Larson and Hernández-Truyol acknowledge the highly problematic nature of this analogy, which sex work advocates have for long argued victimizes sex workers by infantilizing them. Yet Larson and Hernández-Truyol insist that they are using the Convention by example and analogy and that voluntary adult prostitution would violate core labor rights, if it interferes with the human capacities of adult persons, is racially and gender subordinating, hence discriminatory, or is illegal in ways that leaves workers unprotected (2006, 438).

9 See Hathaway on the shifts in the discourse of modern slavery so that modern slavery is less about owning people in the traditional sense than of controlling them completely (2008, 17, citing Bales 1999).

10 Directed by Buddhadev Dasgupta, January 14, 2003.

11 Red-light areas in Central Kolkata catered to sailors and soldiers, while further south near the dock areas, sex workers serviced sailors (Banerjee 2000, 87). However, even back then, the stratified nature of Sonagachi’s sex workers meant that lower-class sex workers would cater to poorer customers as well, although some of the wealthiest Hindu families lived in Northern Kolkata near Sonagachi.

12 Dell 1999, 86. See 169–242 for a description of rescue homes set up by elite middle-class Bengali women for the rehabilitation of rescued sex workers.

13 I thank Pradip Baksi, an adviser to the DMSC for this astute observation.

14 I use the term “provincial” in the title to this section in two senses: first, to posit the small city as a province in contrast to a major metropolitan city like Kolkata. Second, I use it to “provincialize” capital in the way that Dipesh Chakrabarty “provincializes” European theory, where Western conceptual categories ought to be viewed not as a language but a dialect backed up by an army. Chari similarly provincializes capital in the context of labor markets (2004a, 2004b).

15 There are exceptions. North Indian states like Haryana, Orissa, and the union territory of Chandigarh (Shakti Vahini 2004) have no red-light areas. In contrast, the capital of AP, Hyderabad does.

16 One crore equals 100 lakhs or 10 million rupees; 311 crore rupees is roughly \$68.98 million USD.

17 Pilgrims wear a bar-coded wristband that beeps at their turn for *darshan* (being in the presence of the deity) (Naidu 2000, 75).

18 Here Sanyal views precapital not as being superseded by capital but instead constituting an internal “other” of capital (2007, 39). *Noncapital* now becomes the “other” of capital, articulating with capital to form the postcolonial *economic* (ibid.)

19 Chatterjee distinguishes civil society as a limited sphere of action in which the elite, a small section of culturally equipped citizens, engages with the state in contrast to political society where the subalterns operate; the state’s legitimacy in relation to these subaltern population groups derives from the welfare nature of government function (Chatterjee 2004, 38).

20 Cf. Fortunati who observes that the sex worker–pimp relation is one where the pimp emotionally and sexually reproduces the sex worker (1995, 55).

21 Cf. Hernández-Truyol and Larson 2006; Shrager 1994, 161.

22 See Chigateri for an analysis of the demands of domestic workers (2007).

23 Article 3(a) of the UN Protocol defines exploitation to include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of organs.

24 Failure to delineate the institutional settings in which sex work is performed could also result in conflation between the age and income status of sex workers or their spatial location on the one hand, with their class process in sex work on the other. Hence high-income sex workers may be associated with self-employment and street-based sex work with primitive relations and so on. As I have shown in chapters 4 and 5, there is no necessary relation between the level of income and the mode of organization of sex work.

25 Cf. Dell 1999, 270, where she argues that the *chhukri* mode is a phase of exploitation rather than a life sentence. Given sex workers’ mobility, especially to other modes within the sex industry, she claims that “slavery, therefore, does not accurately represent sexual labor relations in Calcutta’s red-light districts.”

26 Bonded labor arising from a prior relationship—either payment, an advance to the sex worker or her family, or a prior social or customary relation—constitutes bonded labor under the relevant Indian law, the Bonded Labour System (Abolition) Act, 1976.

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